

HOUSE JOURNAL

EIGHTY-SECOND LEGISLATURE, REGULAR SESSION

PROCEEDINGS

EIGHTY-NINTH DAY — SUNDAY, MAY 29, 2011

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

The roll of the house was called and a quorum was announced present (Record 1670).

Present — Mr. Speaker; Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; 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 Don Garner, pastor, Capitol Commission, Austin.

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

HR 2697 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the speaker announced the introduction of **HR 2697**, suspending the limitations on the conferees for **HB 213**.

HR 2689 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the speaker announced the introduction of **HR 2689**, suspending the limitations on the conferees for **HB 2327**.

HR 2688 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the speaker announced the introduction of **HR 2688**, suspending the limitations on the conferees for **HB 362**.

HR 2684 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the speaker announced the introduction of **HR 2684**, suspending the limitations on the conferees for **SB 100**.

HR 2686 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the speaker announced the introduction of **HR 2686**, suspending the limitations on the conferees for **HB 2608**.

HR 2666 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the speaker announced the introduction of **HR 2666**, suspending the limitations on the conferees for **SB 1420**.

HR 2690 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the speaker announced the introduction of **HR 2690**, suspending the limitations on the conferees for **SB 1198**.

HR 2692 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the speaker announced the introduction of **HR 2692**, suspending the limitations on the conferees for **HB 2439**.

HR 2691 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the speaker announced the introduction of **HR 2691**, suspending the limitations on the conferees for **HB 2457**.

HR 2531 - ADOPTED
(by Menendez)

Representative Menendez moved to suspend all necessary rules to take up and consider at this time **HR 2531**.

The motion prevailed.

The following resolution was laid before the house:

HR 2531, Honoring Hector and Maria Morales of San Antonio on their 50th wedding anniversary.

HR 2531 was adopted.

On motion of Representative McClendon, the names of all the members of the house were added to **HR 2531** as signers thereof.

HR 2623 - ADOPTED
(by Raymond)

Representative Raymond moved to suspend all necessary rules to take up and consider at this time **HR 2623**.

The motion prevailed.

The following resolution was laid before the house:

HR 2623, Commemorating the 25th anniversary of the Adopt-A-Beach Program and honoring its founder, former Texas land commissioner Garry Mauro.

HR 2623 was read and was adopted.

On motion of Representative L. Taylor, the names of all the members of the house were added to **HR 2623** as signers thereof.

INTRODUCTION OF GUESTS

The speaker recognized Representative Raymond who introduced Garry Mauro and participants in the Adopt-A-Beach Program.

(Darby in the chair)

HR 2655 - ADOPTED
(by Marquez)

Representative Gonzalez moved to suspend all necessary rules to take up and consider at this time **HR 2655**.

The motion prevailed.

The following resolution was laid before the house:

HR 2655, In memory of U.S. Army Corporal Eduardo Pedregon of El Paso, who died while fighting in Korea in 1950.

HR 2655 was unanimously adopted by a rising vote.

On motion of Representative Sheets, the names of all the members of the house were added to **HR 2655** as signers thereof.

HR 2563 - ADOPTED
(by White)

Representative White moved to suspend all necessary rules to take up and consider at this time **HR 2563**.

The motion prevailed.

The following resolution was laid before the house:

HR 2563, Recognizing the GEAR UP program and congratulating the 2011 graduating class of Lufkin High School.

HR 2563 was read and was adopted.

On motion of Representative Geren, the names of all the members of the house were added to **HR 2563** as signers thereof.

INTRODUCTION OF GUESTS

The chair recognized Representative White who introduced participants in the GEAR UP program.

(Speaker in the chair)

MOTION TO SUSPEND RULES

Representative Geren moved to suspend Rule 8, Section 13 of the House Rules and all necessary rules to consider items remaining on today's items eligible lists after the midnight deadline for consideration.

The motion was withdrawn.

HR 2706 - ADOPTED (by Bonnen)

Representative Bonnen moved to suspend all necessary rules to take up and consider at this time **HR 2706**.

The motion prevailed.

The following resolution was laid before the house:

HR 2706, In memory of Melissa Susan Mitchell-Manning of Houston.

HR 2706 was read and was unanimously adopted by a rising vote.

On motion of Representative S. Miller, the names of all the members of the house were added to **HR 2706** as signers thereof.

HR 2703 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the speaker announced the introduction of **HR 2703**, suspending the limitations on the conferees for **SB 1320**.

HR 5 - ADOPTED (by Branch and Straus)

Representative Branch moved to suspend all necessary rules to take up and consider at this time **HR 5**.

The motion prevailed.

The following resolution was laid before the house:

HR 5, Commemorating the 50th anniversary of the election of John Tower as the first Texas Republican to serve in the United States Senate since Reconstruction.

HR 5 was read and was adopted.

On motion of the speaker, the names of all the members of the house were added to **HR 5** as signers thereof.

MESSAGE FROM THE SENATE

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

SB 1600 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative P. King submitted the conference committee report on **SB 1600**.

Representative P. King moved to adopt the conference committee report on **SB 1600**.

The motion to adopt the conference committee report on **SB 1600** prevailed by (Record 1671): 134 Yeas, 0 Nays, 1 Present, not voting.

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

Present, not voting — Mr. Speaker(C).

Absent — Anchia; Castro; Coleman; Dukes; Dutton; Farias; Farrar; Gonzales, V.; Hernandez Luna; Lucio; McClendon; Pickett; Strama; Veasey; Walle.

STATEMENTS OF VOTE

When Record No. 1671 was taken, I was in the house but away from my desk. I would have voted yes.

Dukes

When Record No. 1671 was taken, I was in the house but away from my desk. I would have voted yes.

McClendon

I was shown voting yes on Record No. 1671. I intended to vote no.

S. Miller

SB 1331 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Gallego submitted the conference committee report on **SB 1331**.

Representative Gallego moved to adopt the conference committee report on **SB 1331**.

The motion to adopt the conference committee report on **SB 1331** prevailed by (Record 1672): 142 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; 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; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lyne; Madden; 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; Veasey; Villarreal; Vo; Weber; White; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent — Coleman; Farias; Giddings; Hernandez Luna; Lucio; Turner; Walle.

SB 341 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Menendez submitted the conference committee report on **SB 341**.

Representative Menendez moved to adopt the conference committee report on **SB 341**.

The motion to adopt the conference committee report on **SB 341** prevailed by (Record 1673): 118 Yeas, 20 Nays, 4 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, R.; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Callegari; Carter; Castro; Chisum; Christian; Cook; Craddick; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farrar; Flynn; Frullo; Gallego; Geren; Gonzales, V.; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Margo; Marquez; Martinez Fischer; McClendon; Menendez; Miles; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts;

Quintanilla; Raymond; Reynolds; Ritter; Rodriguez; Schwertner; Scott; Sheets; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Veasey; Villarreal; Vo; Weber; Woolley; Workman; Zerwas.

Nays — Anderson, C.; Aycok; Beck; Button; Cain; Creighton; Fletcher; Garza; Gooden; Kleinschmidt; Kolkhorst; Madden; Miller, D.; Miller, S.; Price; Riddle; Sheffield; Simpson; White; Zedler.

Present, not voting — Mr. Speaker(C); Gonzales, L.; Gonzalez; Otto.

Absent — Coleman; Farias; Giddings; Hernandez Luna; Mallory Caraway; Martinez; Turner; Walle.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1673. I intended to vote no.

Cook

I was shown voting yes on Record No. 1673. I intended to vote no.

Hilderbran

I was shown voting yes on Record No. 1673. I intended to vote no.

Legler

When Record No. 1673 was taken, I was in the house but away from my desk. I would have voted yes.

Mallory Caraway

HB 1103 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Lucio submitted the following conference committee report on **HB 1103**:

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 1103** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Ellis
Whitmire
Lucio
Seliger
Huffman

On the part of the senate

Lucio
Peña
Scott
Thompson
Woolley

On the part of the house

HB 1103, A bill to be entitled An Act relating to conditions of community supervision for persons convicted of certain criminal offenses involving animal cruelty.

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

SECTION 1. Section 11, Article 42.12, Code of Criminal Procedure, is amended by adding Subsection (m) to read as follows:

(m) If a judge grants community supervision to a person convicted of an offense under Section 42.09, 42.091, 42.092, or 42.10, Penal Code, the judge may require the person to attend a responsible pet owner course sponsored by a municipal animal shelter, as defined by Section 823.001, Health and Safety Code, that:

(1) receives federal, state, county, or municipal funds; and

(2) serves the county in which the court is located.

SECTION 2. This Act takes effect September 1, 2011.

Representative Lucio moved to adopt the conference committee report on **HB 1103**.

The motion to adopt the conference committee report on **HB 1103** prevailed by (Record 1674): 132 Yeas, 12 Nays, 1 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Callegari; Carter; Castro; Chisum; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farrar; Fletcher; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; 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; 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; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Villarreal; Vo; Weber; Woolley; Workman; Zerwas.

Nays — Berman; Cain; Christian; Flynn; Gooden; Hughes; Landtroop; Perry; Phillips; Simpson; White; Zedler.

Present, not voting — Mr. Speaker(C).

Absent — Coleman; Farias; Martinez Fischer; Veasey; Walle.

STATEMENTS OF VOTE

When Record No. 1674 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. 1674. I intended to vote no.

Weber

SB 1588 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Pitts submitted the conference committee report on **SB 1588**.

Representative Pitts moved to adopt the conference committee report on **SB 1588**.

The motion to adopt the conference committee report on **SB 1588** prevailed by (Record 1675): 132 Yeas, 13 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Callegari; Castro; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Driver; Dukes; Dutton; Eissler; Elkins; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; 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; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Woolley; Workman; Zedler; Zerwas.

Nays — Cain; Carter; Deshotel; Eiland; Hartnett; Hughes; King, S.; Landtroop; Lyne; Perry; Simpson; Weber; White.

Present, not voting — Mr. Speaker(C).

Absent — Aliseda; Coleman; Farias; Walle.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1675. I intended to vote no.

Creighton

I was shown voting yes on Record No. 1675. I intended to vote no.

Sheffield

I was shown voting yes on Record No. 1675. I intended to vote no.

V. Taylor

HB 1286 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative D. Howard submitted the following conference committee report on **HB 1286**:

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 1286** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Davis

Deuell

Nichols

Ogden

Patrick

On the part of the senate

D. Howard

Darby

Patrick

Veasey

Aycock

On the part of the house

HB 1286, A bill to be entitled An Act relating to adoption of rules by the University Interscholastic League.

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

SECTION 1. Subchapter D, Chapter 33, Education Code, is amended by adding Section 33.0831 to read as follows:

Sec. 33.0831. UNIVERSITY INTERSCHOLASTIC LEAGUE RULES: FISCAL IMPACT STATEMENT. (a) The legislative council of the University Interscholastic League may not take final action on a new or amended rule that would result in additional costs for a member school unless a fiscal impact statement regarding the rule has been completed in accordance with this section.

(b) For purposes of Subsection (a), final action by the legislative council means:

(1) submitting a rule to school superintendents, if the submission is required under the legislative council's procedures; or

(2) submitting a rule approved by the council to the commissioner for the commissioner's approval under Section 33.083(b), if the rule does not require submission to school superintendents under the legislative council's procedures.

(c) A fiscal impact statement regarding a rule must include:

(1) a projection of the costs to member schools of complying with the rule during the five-year period following the effective date of the rule; and

(2) an explanation of the methodology used to analyze the fiscal impact of the rule and determine the costs projection required by Subdivision (1).

(d) If a fiscal impact statement is prepared for a rule, a copy of the statement must be attached to the rule when it is submitted for approval to school superintendents, if applicable, and when it is submitted to the commissioner for approval.

SECTION 2. Section 33.0831, Education Code, as added by this Act, applies only to a rule on which the legislative council of the University Interscholastic League takes final action on or after the effective date of this Act.

SECTION 3. This Act takes effect September 1, 2011.

(Geren in the chair)

Representative D. Howard moved to adopt the conference committee report on **HB 1286**.

The motion to adopt the conference committee report on **HB 1286** prevailed by (Record 1676): 116 Yeas, 30 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, R.; Aycock; Bohac; Branch; Brown; Burkett; Burnam; Button; Carter; Castro; Chisum; Christian; Coleman; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Farrar; Frullo; Gallego; Garza; Giddings; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hunter; Jackson; Johnson; Keffer; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Laubenberg; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Oliveira; Orr; Otto; Patrick; Peña; Phillips; Pickett; Pitts; Quintanilla; Raymond; Reynolds; Ritter; Rodriguez; Scott; Sheets; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; White; Woolley; Workman; Zerwas.

Nays — Anderson, C.; Beck; Berman; Bonnen; Cain; Callegari; Cook; Craddick; Creighton; Elkins; Fletcher; Flynn; Gonzales, L.; Hamilton; Hughes; Isaac; King, P.; Larson; Lavender; Legler; Nash; Parker; Paxton; Perry; Price; Riddle; Schwertner; Sheffield; Weber; Zedler.

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

Absent — Farias; Walle.

STATEMENTS OF VOTE

I was shown voting no on Record No. 1676. I intended to vote yes.

Craddick

I was shown voting yes on Record No. 1676. I intended to vote no.

Kuempel

I was shown voting yes on Record No. 1676. I intended to vote no.

Morrison

I was shown voting no on Record No. 1676. I intended to vote yes.

Paxton

HR 2532 - ADOPTED (by Gutierrez)

Representative Gutierrez moved to suspend all necessary rules to take up and consider at this time **HR 2532**.

The motion prevailed.

The following resolution was laid before the house:

HR 2532, In memory of Monica Lisa Reyes of El Paso.

HR 2532 was unanimously adopted by a rising vote.

(Ritter in the chair)

HR 2655 - PREVIOUSLY ADOPTED
(by Marquez)

The chair laid out and had read the following previously adopted resolution:

HR 2655, In memory of U.S. Army Corporal Eduardo Pedregon of El Paso, who died while fighting in Korea in 1950.

On motion of Representative Pickett, the names of all the members of the house were added to **HR 2655** as signers thereof.

HR 2648 - ADOPTED
(by L. Taylor)

The following privileged resolution was laid before the house:

HR 2648

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 2605** (the continuation and functions of the division of workers' compensation of the Texas Department of Insurance) to consider and take action on the following matters:

(1) House Rule 13, Section 9(a)(4), is suspended to permit the committee to add text not included in either the house or senate version of the bill to proposed Section 504.055, Labor Code, as added by Senate Floor Amendment No. 4 by Lucio, by adding Subsection (e) to read as follows:

(e) Except as otherwise provided by this section, a first responder is entitled to review of a medical dispute in the manner provided by Section 504.054.

Explanation: This addition is a cross-reference made necessary by the addition of proposed Section 504.054, Labor Code, as added by the senate committee substitute.

(2) House Rule 13, Section 9(a)(2), is suspended to permit the committee to omit text not in disagreement by omitting proposed Section 504.055, Labor Code, that reads as follows:

Sec. 504.055. FIRST RESPONDER MEDICAL DISPUTES; CONTESTED CASE HEARING AND JUDICIAL REVIEW. (a) In this section, "first responder" has the meaning assigned by Section 504.054.

(b) A first responder whose medical dispute remains unresolved after a review by an independent review organization is entitled to a contested case hearing. The independent review organization's decision is binding during the pendency of a dispute. A hearing under this subsection shall be conducted by the division in the same manner as a hearing conducted under Section 413.0311.

(c) A first responder who has exhausted all administrative remedies under Subsection (b) and is aggrieved by a final decision of the division may seek judicial review of the decision. Judicial review under this subsection shall be conducted in the manner provided by Section 413.0311(d).

Explanation: The omission is necessary to prevent an inconsistency with proposed Section 504.054, Labor Code, as added by the senate committee substitute.

(3) House Rule 13, Section 9(a)(1), is suspended to permit the committee to change text not in disagreement in the proposed section containing the transition language added by Senate Floor Amendment No. 4 by Lucio to read as follows:

Section 504.055, Labor Code, as added by this Act, applies only to a claim for workers' compensation benefits based on a compensable injury that occurs on or after the effective date of this Act. A claim based on a compensable injury that occurs before that date is governed by the law in effect on the date the compensable injury occurred, and the former law is continued in effect for that purpose.

Explanation: This change is necessary to correct a cross-reference.

HR 2648 was adopted by (Record 1677): 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; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; 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; Ritter(C).

HB 2605 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative L. Taylor submitted the following conference committee report on **HB 2605**:

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 2605** 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

Hegar

Hinojosa

Nelson

Whitmire

L. Taylor

Cook

Menendez

Solomons

On the part of the senate

On the part of the house

HB 2605, A bill to be entitled An Act relating to the continuation and functions of the division of workers' compensation of the Texas Department of Insurance.

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

SECTION 1. Section 31.004(b), Insurance Code, is amended to read as follows:

(b) Unless continued as provided by Chapter 325, Government Code, the duties of the division of workers' compensation of the Texas Department of Insurance under Title 5, Labor Code, expire September 1, 2017 [~~2014~~], or another date designated by the legislature.

SECTION 2. Sections 1305.355(e), (f), and (g), Insurance Code, are amended to read as follows:

(e) A party to a medical dispute that remains unresolved after a review under this section is entitled to a hearing and ~~[may seek]~~ judicial review of the decision in accordance with Section 1305.356. The division of workers' compensation and the department are not considered to be parties to the medical dispute.

(f) A determination of an independent review organization related to a request for preauthorization or concurrent review is binding during the pendency of a dispute ~~[any appeal]~~ and the carrier and network shall comply with the determination.

(g) If a contested case hearing or judicial review is not sought under Section 1305.356 ~~[this section]~~, the carrier and network shall comply with the independent review organization's determination.

SECTION 3. Subchapter H, Chapter 1305, Insurance Code, is amended by adding Section 1305.356 to read as follows:

Sec. 1305.356. CONTESTED CASE HEARING ON AND JUDICIAL REVIEW OF INDEPENDENT REVIEW. (a) A party to a medical dispute that remains unresolved after a review under Section 1305.355 is entitled to a contested case hearing. A hearing under this subsection shall be conducted by the department's division of workers' compensation in the same manner as a hearing conducted under Section 413.0311, Labor Code.

(b) At a contested case hearing held under Subsection (a), the hearing officer conducting the hearing shall consider evidence-based treatment guidelines adopted by the network under Section 1305.304.

(c) A party that has exhausted all administrative remedies under Subsection (a) and is aggrieved by a final decision of the department's division of workers' compensation may seek judicial review of the decision.

(d) Judicial review under Subsection (c) shall be conducted in the manner provided for judicial review of a contested case under Subchapter G, Chapter 2001, Government Code, and is governed by the substantial evidence rule.

SECTION 4. Section 2051.151(e), Insurance Code, is amended to read as follows:

(e) An insurance company that fails to comply with this section commits an [a-Class-D] administrative violation under Subtitle A, Title 5, Labor Code.

SECTION 5. Section 2053.206(a), Insurance Code, is amended to read as follows:

(a) A person commits an [a-Class-A] administrative violation under Subtitle A, Title 5, Labor Code, if the person engages in conduct that violates this subchapter.

SECTION 6. Section 402.023, Labor Code, is amended by adding Subsection (c-1) to read as follows:

(c-1) The division shall adopt a policy outlining the division's complaint process from receipt of the initial complaint to the complaint's disposition.

SECTION 7. Subchapter B, Chapter 402, Labor Code, is amended by adding Section 402.0231 to read as follows:

Sec. 402.0231. DOCUMENTATION AND ANALYSIS OF COMPLAINTS. (a) The division shall develop procedures to formally document and analyze complaints received by the division.

(b) The division shall compile detailed statistics on all complaints received and analyze complaint information trends, including:

- (1) the number of complaints;
- (2) the source of each complaint;
- (3) the types of complaints;
- (4) the length of time from the receipt of the complaint to its disposition; and

(5) the disposition of complaints.

(c) The division shall further analyze the information compiled under Subsection (b) by field office and by program.

(d) The division shall report the information compiled and analyzed under Subsections (b) and (c) to the commissioner at regular intervals.

SECTION 8. Section 402.073, Labor Code, is amended to read as follows:

Sec. 402.073. COOPERATION WITH STATE OFFICE OF ADMINISTRATIVE HEARINGS. (a) The commissioner and the chief administrative law judge of the State Office of Administrative Hearings [by rule] shall adopt a memorandum of understanding governing administrative procedure law hearings under this subtitle conducted by the State Office of Administrative

Hearings in the manner provided for a contested case hearing under Chapter 2001, Government Code. The memorandum of understanding must address the payment of costs by parties to a medical fee dispute under Section 413.0312.

(b) In a case in which a hearing is conducted by the State Office of Administrative Hearings under Section 413.031 or ~~[§] 413.055, [or 415.034,]~~ the administrative law judge who conducts the hearing for the State Office of Administrative Hearings shall enter the final decision in the case after completion of the hearing.

(c) In a case in which a hearing is conducted in conjunction with Section 402.072, 407.046, ~~[or] 408.023, or 415.034,~~ and in other cases under this subtitle that are not subject to Subsection (b), the administrative law judge who conducts the hearing for the State Office of Administrative Hearings shall propose a decision to the commissioner for final consideration and decision by the commissioner.

(d) The notice of the commissioner's order must include a statement of the right of the person to judicial review of the order.

(e) In issuing an order under this section, the commissioner shall comply with the requirements applicable to a state agency under Section 2001.058, Government Code.

SECTION 9. Section 403.001(a), Labor Code, is amended to read as follows:

(a) Except as provided by Sections 403.006, ~~[and] 403.007, and 403.008,~~ or as otherwise provided by law, money collected under this subtitle, including ~~[administrative penalties and]~~ advance deposits for purchase of services, shall be deposited in the general revenue fund of the state treasury to the credit of the Texas Department of Insurance operating account.

SECTION 10. Chapter 403, Labor Code, is amended by adding Section 403.008 to read as follows:

Sec. 403.008. DEPOSIT OF ADMINISTRATIVE PENALTIES. Administrative penalties collected under this subtitle shall be deposited in the general revenue fund.

SECTION 11. Section 408.0041, Labor Code, is amended by amending Subsections (b) and (h) and adding Subsections (b-1), (f-2), (f-3), and (f-4) to read as follows:

(b) Except as provided by Section 408.1225(f), a ~~[A]~~ medical examination requested under Subsection (a) shall be performed by the next available doctor on the division's list of certified designated doctors whose credentials are appropriate for the area of the body affected by the injury ~~[issue in question]~~ and the injured employee's diagnosis ~~[medical condition]~~ as determined by commissioner rule. ~~[A designated doctor, other than a chiropractor, is subject to Section 408.0043. A designated doctor who is a chiropractor is subject to Section 408.0045.]~~ The division shall assign a designated doctor not later than the 10th day after the date on which the request under Subsection (a) is approved, and the examination must be conducted not later than the 21st day after the date on which the commissioner issues the order under Subsection (a). An examination under

this section may not be conducted more frequently than every 60 days, unless good cause for more frequent examinations exists, as defined by commissioner rules.

(b-1) A designated doctor, other than a chiropractor, is subject to Section 408.0043. A designated doctor who is a chiropractor is subject to Section 408.0045. To the extent of a conflict between this section and Section 408.0043 or 408.0045, this section controls.

(f-2) An employee required to be examined by a designated doctor may request a medical examination to determine maximum medical improvement and the employee's impairment rating from the treating doctor or from another doctor to whom the employee is referred by the treating doctor if:

(1) the designated doctor's opinion is the employee's first evaluation of maximum medical improvement and impairment rating; and

(2) the employee is not satisfied with the designated doctor's opinion.

(f-3) The commissioner shall provide the insurance carrier and the employee with reasonable time to obtain and present the opinion of a doctor selected under Subsection (f) or (f-2) before the commissioner makes a decision on the merits of the issue.

(f-4) The commissioner by rule shall adopt guidelines prescribing the circumstances under which an examination by the employee's treating doctor or another doctor to whom the employee is referred by the treating doctor to determine any issue under Subsection (a), other than an examination under Subsection (f-2), may be appropriate.

(h) The insurance carrier shall pay for:

(1) an examination required under Subsection (a), ~~or~~ (f), or (f-2), unless otherwise prohibited by this subtitle or by an order or rule of the commissioner; and

(2) the reasonable expenses incident to the employee in submitting to the examination.

SECTION 12. Section 408.1225, Labor Code, is amended by amending Subsections (a), (b), and (e) and adding Subsections (a-1), (a-2), (a-3), (a-4), (a-5), and (f) to read as follows:

(a) To be eligible to serve as a designated doctor, a doctor must maintain an active certification by the division ~~[meet specific qualifications, including training in the determination of impairment ratings and demonstrated expertise in performing examinations and making evaluations as described by Section 408.0041. The commissioner shall develop qualification standards and administrative policies to implement this subsection and may adopt rules as necessary].~~

(a-1) The commissioner by rule shall develop a process for the certification of a designated doctor.

(a-2) The rules adopted by the commissioner under Subsection (a-1) must:

(1) require the division to evaluate the qualification of designated doctors for certification using eligibility requirements, including:

(A) educational experience;

(B) previous training; and

(C) demonstrated ability to perform the specific designated doctor duties described by Section 408.0041; and

(2) require standard training and testing to be completed in accordance with policies and guidelines developed by the division.

(a-3) The division shall develop guidelines for certification training programs for certification of a designated doctor under Subsection (a-1) to ensure a designated doctor's competency and continued competency in providing assessments, including:

(1) a standard curriculum;

(2) standard course materials; and

(3) testing criteria.

(a-4) The division shall develop and implement a procedure to periodically review and update the guidelines developed under Subsection (a-3).

(a-5) The division may authorize an independent training and testing provider to conduct the certification program for the division under the guidelines developed under Subsection (a-3).

(b) The commissioner shall ensure the quality of designated doctor decisions and reviews through active monitoring of the decisions and reviews, and may take action as necessary to:

(1) restrict the participation of a designated doctor; ~~or~~

(2) deny renewal of ~~remove~~ a ~~doctor from inclusion on the~~ department's list of designated doctor's certification; or

(3) revoke a designated doctor's certification under Section 413.044 ~~doctors~~.

(e) A designated doctor, other than a chiropractor, is subject to Section 408.0043. A designated doctor who is a chiropractor is subject to Section 408.0045. To the extent of a conflict between this section and Section 408.0043 or 408.0045, this section controls.

(f) A designated doctor shall continue providing services related to a case assigned to the designated doctor, including performing subsequent examinations or acting as a resource for division disputes, unless the division authorizes the designated doctor to discontinue providing services. The commissioner by rule shall prescribe the circumstances under which a designated doctor is permitted to discontinue providing services, including:

(1) the doctor decides to stop practicing in the workers' compensation system; or

(2) the doctor relocates the doctor's residence or practice.

SECTION 13. Section 409.021(e), Labor Code, is amended to read as follows:

(e) An insurance carrier commits an administrative ~~a~~ violation if the insurance carrier does not initiate payments or file a notice of refusal as required by this section. ~~[A violation under this subsection shall be assessed at \$500 if the carrier initiates compensation or files a notice of refusal within five working days of the date required by Subsection (a), \$1,500 if the carrier initiates compensation or files a notice of refusal more than five and less than 16 working days of the date required by Subsection (a), \$2,500 if the carrier initiates compensation or~~

~~files a notice of refusal more than 15 and less than 31 working days of the date required by Subsection (a), or \$5,000 if the carrier initiates compensation or files a notice of refusal more than 30 days after the date required by Subsection (a). The administrative penalties are not cumulative.]~~

SECTION 14. Section 410.023, Labor Code, is amended by amending Subsection (b) and adding Subsections (c) and (d) to read as follows:

(b) The division shall require the party requesting the benefit review conference to provide documentation of efforts made to resolve the disputed issues before the request was submitted.

(c) The commissioner by rule shall:

(1) adopt guidelines regarding the type of information necessary to satisfy the requirements of Subsection (b); and

(2) establish a process through which the division evaluates the sufficiency of the documentation provided under Subsection (b) [this requirement].

(d) The division may deny a request for a benefit review conference if the party requesting the benefit review conference does not provide the documentation required under Subsection (b).

SECTION 15. Section 410.028, Labor Code, is amended to read as follows:

Sec. 410.028. FAILURE TO ATTEND; ADMINISTRATIVE VIOLATION. (a) A scheduled benefit review conference shall be conducted even though a party fails to attend unless the benefit review officer determines that good cause, as defined by commissioner rule, exists to reschedule the conference.

(b) If a party to a benefit review conference under Section 410.023 requests that the benefit review conference be rescheduled under this section, the party must submit a request in the same manner as an initial request under Section 410.023. The division shall evaluate a request for a rescheduled benefit review conference received under this section in the same manner as an initial request received under Section 410.023.

(c) If a [A party commits an administrative violation if the] party fails to request that a benefit review conference be rescheduled in the time required by commissioner rule or fails to attend a benefit review conference without good cause as defined [determined] by commissioner rule, the party forfeits the party's entitlement to attend a benefit review conference on the issue in dispute, unless a [the] benefit review officer is authorized to schedule an additional benefit review conference under Section 410.026(b).

(d) The commissioner shall adopt rules necessary to implement and enforce this section, including rules that:

(1) define good cause; and

(2) establish deadlines for requesting that a benefit review conference be rescheduled under Subsection (b).

SECTION 16. Section 410.203(b), Labor Code, is amended to read as follows:

(b) The appeals panel may:

(1) reverse the decision of the hearings officer and render a new decision; [or]

(2) reverse the decision of the hearings officer and remand the case to the hearing officer for further consideration and development of evidence; or

(3) affirm the decision of the hearings officer in a case described by Section 410.204(a-1).

SECTION 17. Section 410.204, Labor Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) The appeals panel shall review each request and issue a written decision on each reversed or remanded case. The appeals panel may issue a written decision on an affirmed case as described by Subsection (a-1). The decision must be in writing and shall be issued not later than the 45th day after the date on which the written response to the request for appeal is filed. The appeals panel shall file a copy of the decision with the commissioner.

(a-1) An appeals panel may only issue a written decision in a case in which the panel affirms the decision of a hearings officer if the case:

(1) is a case of first impression;

(2) involves a recent change in law; or

(3) involves errors at the contested case hearing that require correction but do not affect the outcome of the hearing, including:

(A) findings of fact for which insufficient evidence exists;

(B) incorrect conclusions of law;

(C) findings of fact or conclusions of law regarding matters that were not properly before the hearings officer; and

(D) legal errors not otherwise described by this subdivision.

SECTION 18. Sections 413.031(k) and (k-1), Labor Code, are amended to read as follows:

(k) A party to a medical dispute ~~[, other than a medical dispute regarding spinal surgery subject to Subsection (l) and a dispute subject to Section 413.0311,]~~ that remains unresolved after a review of the medical service under this section is entitled to a hearing under Section 413.0311 or 413.0312, as applicable. ~~[A hearing under this subsection shall be conducted by the State Office of Administrative Hearings not later than the 60th day after the date on which the party notifies the division of the request for a hearing. The hearing shall be conducted in the manner provided for a contested case under Chapter 2001, Government Code.]~~

(k-1) A party who has exhausted all administrative remedies described by ~~[under]~~ Subsection (k) and who is aggrieved by a final decision of the division or the State Office of Administrative Hearings may seek judicial review of the decision. Judicial review under this subsection shall be conducted in the manner provided for judicial review of a contested case under Subchapter G, Chapter 2001, Government Code.

SECTION 19. The heading to Section 413.0311, Labor Code, is amended to read as follows:

Sec. 413.0311. REVIEW OF ~~[CERTAIN]~~ MEDICAL NECESSITY DISPUTES; CONTESTED CASE HEARING.

SECTION 20. Section 413.0311(a), Labor Code, is amended to read as follows:

(a) This section applies only to ~~[the following medical disputes that remain unresolved after any applicable review under Sections 413.031(b) through (i):~~

~~[(1) a medical fee dispute in which the amount of reimbursement sought by the requestor in its request for medical dispute resolution does not exceed \$2,000;~~

~~[(2)] an appeal of an independent review organization decision regarding determination of the [retrospective] medical necessity for a health care service [for which the amount billed does not exceed \$3,000; and~~

~~[(3) an appeal of an independent review organization decision regarding determination of the concurrent or prospective medical necessity for a health care service].~~

SECTION 21. Subchapter C, Chapter 413, Labor Code, is amended by adding Section 413.0312 to read as follows:

Sec. 413.0312. REVIEW OF MEDICAL FEE DISPUTES; BENEFIT REVIEW CONFERENCE. (a) This section applies only to a medical fee dispute that remains unresolved after any applicable review under Sections 413.031(b) through (i).

(b) Subject to Subsection (e), a party to a medical fee dispute described by Subsection (a) must adjudicate the dispute in the manner required by Subchapter B, Chapter 410.

(c) At a benefit review conference conducted under this section, the parties to the dispute may not resolve the dispute by negotiating fees that are inconsistent with any applicable fee guidelines adopted by the commissioner.

(d) If issues remain unresolved after a benefit review conference, the parties may elect to engage in arbitration as provided by Section 410.104.

(e) If arbitration is not elected as described by Subsection (d), a party to a medical fee dispute described by Subsection (a) is entitled to a contested case hearing. A hearing under this subsection shall be conducted by the State Office of Administrative Hearings in the manner provided for a contested case under Chapter 2001, Government Code.

(f) The commissioner or the division may participate in a contested case hearing conducted under Subsection (e) if the hearing involves the interpretation of fee guidelines adopted by the commissioner. The division and the department are not considered to be parties to the medical fee dispute for purposes of this section.

(g) Except as otherwise provided by this subsection, the nonprevailing party shall reimburse the division for the costs for services provided by the State Office of Administrative Hearings under this section. If the injured employee is the nonprevailing party, the insurance carrier shall reimburse the division for the costs for services provided by the State Office of Administrative Hearings under this section. The party required to reimburse the division under this subsection shall remit payment to the division not later than the 30th day after the date of receiving a bill or statement from the division.

(h) The State Office of Administrative Hearings shall timely notify the division if a dispute is dismissed before issuance of a decision under this section. In the event of a dismissal, the party requesting the hearing, other than the injured

employee, shall reimburse the division for the costs for services provided by the State Office of Administrative Hearings unless otherwise agreed by the parties. If the injured employee requested the hearing, the insurance carrier shall reimburse the division for the costs for services provided by the State Office of Administrative Hearings unless otherwise agreed by the parties. The responsible party shall remit payment to the division not later than the 30th day after the date of receiving a bill or statement from the division.

(i) The State Office of Administrative Hearings shall identify the nonprevailing party and any costs for services provided by the office under this section in its final decision. Money collected by the division under this section shall be deposited in the general revenue fund to the credit of the Texas Department of Insurance operating account.

(j) Interest on the amount of reimbursement required by this section that remains unpaid accrues at a rate provided by Section 401.023 beginning on the 45th day after the date the division submits the bill or statement to a party until the date the reimbursement is paid. Failure to pay the division as required by this section is an administrative violation under this subtitle.

(k) The commissioner by rule shall establish procedures to enable the division to charge a party to a medical fee dispute, other than an injured employee, for the costs of services provided by the State Office of Administrative Hearings.

SECTION 22. Section 413.044(b), Labor Code, is amended to read as follows:

(b) Sanctions imposed under Subsection (a) may include:

(1) revocation of certification for a designated doctor on ~~[removal or suspension from]~~ the division list of designated doctors; or

(2) restrictions on the reviews made by the person as a designated doctor.

SECTION 23. Section 413.0512, Labor Code, is amended by amending Subsections (b), (c), (d), (e), and (f) and adding Subsections (g) and (h) to read as follows:

(b) The agencies that regulate health professionals who are licensed or otherwise authorized to practice a health profession under Title 3, Occupations Code, and who are involved in the provision of health care as part of the workers' compensation system in this state ~~[Texas State Board of Medical Examiners and the Texas Board of Chiropractic Examiners, with input from their respective professional associations,]~~ shall develop lists of health care providers ~~[physicians and chiropractors]~~ licensed or otherwise regulated by those agencies who have demonstrated experience in workers' compensation or utilization review. The medical advisor shall consider appointing some of the members of the medical quality review panel from the names on those lists and, when appointing members of the medical quality review panel, shall select specialists from various health care specialty fields to serve on the panel to ensure that the membership of the panel has expertise in a wide variety of health care specialty fields. The medical advisor shall also consider nominations for the panel made by labor, business, and insurance organizations.

(c) The medical quality review panel shall recommend to the medical advisor:

(1) appropriate action regarding doctors, other health care providers, insurance carriers, utilization review agents, and independent review organizations; ~~and~~

(2) the addition or deletion of doctors from the list of approved doctors under Section 408.023; and

(3) the certification, revocation of certification, or denial of renewal of certification ~~[or the list]~~ of a designated doctor ~~[doctors established]~~ under Section 408.1225.

(d) A person who serves on the medical quality review panel is immune from suit and from civil liability for an act performed, or a recommendation made, within the scope of the person's functions as a member of the panel if the person acts without malice and in the reasonable belief that the action or recommendation is warranted by the facts known to that person. In the event of a civil action brought against a member of the panel that arises from the person's participation on the panel, the person is entitled to the same protections afforded the commissioner ~~[a commission member]~~ under Section 402.00123 ~~[402.010]~~.

(e) The actions of a person serving on the medical quality review panel do not constitute utilization review and are not subject to Chapter 4201 ~~[Article 21.58A]~~, Insurance Code.

(f) A member of the medical quality review panel ~~[, other than a chiropractor,]~~ who reviews a specific workers' compensation case is subject to Section 408.0043, 408.0044, or ~~[A chiropractor who reviews a specific workers' compensation case is subject to Section]~~ 408.0045, as applicable.

(g) The medical advisor shall notify the division if the medical advisor determines that:

(1) it is no longer necessary for the medical quality review panel to include a member that practices in a particular health care specialty field; or

(2) there is a need for the panel to include a member that practices in a particular health care specialty field not represented on the panel.

(h) If the division receives notice from the medical advisor under Subsection (g)(2), the division may enter into agreements with other state agencies to access, as necessary, expertise in that health care specialty field.

SECTION 24. Subchapter E, Chapter 413, Labor Code, is amended by adding Sections 413.05115, 413.05121, and 413.05122 to read as follows:

Sec. 413.05115. MEDICAL QUALITY REVIEW PROCESS. (a) The division shall develop, and the commissioner shall adopt, criteria concerning the medical case review process under this subchapter. In developing the criteria, and before adopting the criteria, the division and the commissioner, as applicable, must consult with the medical advisor and seek input from potentially affected parties, including health care providers and insurance carriers.

(b) The criteria developed and adopted under this section must establish a clear process or processes:

(1) for handling complaint-based medical case reviews; and

(2) through which the division selects health care providers or other entities for a compliance audit or review.

(c) The division shall make the criteria developed and adopted under this section available on the Internet website maintained by the division.

Sec. 413.05121. QUALITY ASSURANCE PANEL. (a) The medical advisor shall establish the quality assurance panel within the medical quality review panel to:

(1) provide an additional level of evaluation in medical case reviews; and

(2) assist the medical advisor in performing the advisor's duties under Section 413.0511(b)(6) and the medical quality review panel in performing that panel's duties under Section 413.0512.

(b) Members of the quality assurance panel shall evaluate medical care and recommend enforcement actions to the medical advisor.

(c) The quality assurance panel shall meet periodically to discuss issues and otherwise offer assistance to the medical advisor and the medical quality review panel under Subsection (a)(2).

Sec. 413.05122. MEDICAL QUALITY REVIEW PANEL: RULES; TRAINING. (a) The commissioner, after consultation with the medical advisor, shall adopt rules concerning the operation of the medical quality review panel, including rules that establish:

(1) the qualifications necessary for a health care provider to serve on the medical quality review panel;

(2) the composition of the medical quality review panel, including the number of members to be included on the panel and the health care specialty fields required to be represented by the members of the panel;

(3) the maximum length of time a health care provider may serve on the medical quality review panel;

(4) a policy defining situations that constitute a conflict of interest for a member of the medical quality review panel;

(5) procedures and grounds for removing a member of the medical quality review panel from the panel, including as a ground for removal that a member is repeatedly delinquent in conducting case reviews; and

(6) a procedure through which members of the medical quality review panel are notified concerning the status and enforcement outcomes of cases resulting from the medical quality review process.

(b) In addition to the rules required under Subsection (a), the commissioner shall adopt rules concerning the training requirements for members of the medical quality review panel. The rules adopted under this subsection must ensure that panel members are fully aware of any requirements imposed by this subtitle concerning the medical quality review process and the division's goals concerning the process. The rules adopted under this subsection may require members to receive training on any topic determined by the division or the commissioner to be relevant to the operations of the panel and must require members of the panel to receive training concerning:

(1) administrative violations that affect the delivery of appropriate medical care;

(2) the confidentiality requirements described by Section 413.0513 and the immunity from liability provided to members of the panel under Section 413.054; and

(3) the medical quality review criteria adopted under Section 413.05115.

SECTION 25. Section 413.054(a), Labor Code, is amended to read as follows:

(a) A person who performs services for the division as a designated doctor, an independent medical examiner, a doctor performing a medical case review, or a member of a peer review panel has the same immunity from liability as the commissioner under Section 402.00123 ~~[402.0024]~~.

SECTION 26. Section 414.005, Labor Code, is amended to read as follows:

Sec. 414.005. INVESTIGATION UNIT. (a) The division shall maintain an investigation unit to conduct investigations relating to alleged violations of this subtitle, commissioner rules, or a commissioner order or decision, with particular emphasis on violations of Chapters 415 and 416.

(b) As often as the commissioner considers necessary, the commissioner or the investigation unit may review the operations of a person regulated by the division, including an agent of the person performing functions regulated by the division, to determine compliance with this subtitle.

(c) The review described by Subsection (b) may include on-site visits to the person's premises. The commissioner is not required to announce an on-site visit in advance.

(d) During an on-site visit, a person regulated by the division shall make available to the division all records relating to the person's participation in the workers' compensation system.

(e) The commissioner by rule shall prescribe the procedures to be used for both announced and unannounced on-site visits authorized under this section, including specifying the types of records subject to inspection.

SECTION 27. Section 415.0035(e), Labor Code, is amended to read as follows:

(e) A person regulated by the division under this title ~~[An insurance carrier or health care provider]~~ commits an administrative violation if the ~~[that]~~ person violates this subtitle or a rule, order, or decision of the commissioner.

SECTION 28. Section 415.008(a), Labor Code, is amended to read as follows:

(a) A person commits an administrative ~~[a]~~ violation if the person, to obtain or deny a payment of a workers' compensation benefit or the provision of a benefit for the person or another, knowingly or intentionally:

- (1) makes a false or misleading statement;
- (2) misrepresents or conceals a material fact;
- (3) fabricates, alters, conceals, or destroys a document; or
- (4) conspires to commit an act described by Subdivision (1), (2), or (3).

SECTION 29. Sections 415.009 and 415.010, Labor Code, are amended to read as follows:

Sec. 415.009. FRIVOLOUS ACTIONS; ADMINISTRATIVE VIOLATION. ~~[(a)]~~ A person commits an administrative [a] violation if the person brings, prosecutes, or defends an action for benefits under this subtitle or requests initiation of an administrative violation proceeding that does not have a basis in fact or is not warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law.

~~[(b) A violation under Subsection (a) is a Class B administrative violation.]~~

Sec. 415.010. BREACH OF AGREEMENT; ADMINISTRATIVE VIOLATION. ~~[(a)]~~ A party to an agreement approved by the division commits an administrative [a] violation if the person breaches a provision of the agreement.

~~[(b) A violation under Subsection (a) is a Class C administrative violation.]~~

SECTION 30. The heading to Subchapter B, Chapter 415, Labor Code, is amended to read as follows:

SUBCHAPTER B. SANCTIONS ~~[PENALTIES]~~

SECTION 31. Section 415.021(a), Labor Code, is amended to read as follows:

(a) In addition to any other provisions in this subtitle relating to violations, a person commits an administrative violation if the person violates, fails to comply with, or refuses to comply with this subtitle or a rule, order, or decision of the commissioner, including an emergency cease and desist order issued under Section 415.0211. In addition to any sanctions, administrative penalty, or other remedy authorized by this subtitle, the commissioner may assess an administrative penalty against a person who commits an administrative violation. The administrative penalty shall not exceed \$25,000 per day per occurrence. Each day of noncompliance constitutes a separate violation. The commissioner's authority under this chapter is in addition to any other authority to enforce a sanction, penalty, fine, forfeiture, denial, suspension, or revocation otherwise authorized by law.

SECTION 32. Subchapter B, Chapter 415, Labor Code, is amended by adding Section 415.0211 to read as follows:

Sec. 415.0211. EMERGENCY CEASE AND DESIST ORDER. (a) The commissioner ex parte may issue an emergency cease and desist order if:

(1) the commissioner believes a person regulated by the division under this title is engaging in conduct violating a law, rule, or order; and

(2) the commissioner believes that the alleged conduct under Subdivision (1) will result in harm to the health, safety, or welfare of another person.

(b) On issuance of an order under Subsection (a), the commissioner shall serve on the affected person an order that contains a statement of the charges and requires the person immediately to cease and desist from the acts, methods, or practices stated in the order. The commissioner shall serve the order by registered or certified mail, return receipt requested, to the affected person's last known

address. The order is final on the 31st day after the date the affected person receives the order, unless the affected person requests a hearing under Subsection (c).

(c) A person affected by an order is entitled to request a hearing to contest the order. The affected person must request the hearing not later than the 30th day after the date the person receives the order required by Subsection (b). A request to contest an order must:

- (1) be in writing;
- (2) be directed to the commissioner; and
- (3) state the grounds for the request to set aside or modify the order.

(d) On receiving a request for a hearing, the commissioner shall serve notice of the time and place of the hearing. The hearing is subject to the procedures for a contested case under Chapter 2001, Government Code. The hearing shall be held not later than the 10th day after the date the commissioner receives the request for a hearing unless the parties mutually agree to a later hearing date. At the hearing, the person requesting the hearing is entitled to show cause why the order should not be affirmed. Following receipt of the proposal for decision from the State Office of Administrative Hearings regarding the hearing, the commissioner shall wholly or partly affirm, modify, or set aside the order.

(e) Pending a hearing under this section, an order continues in effect unless the order is stayed by the commissioner.

SECTION 33. Section 402.072, Labor Code, is transferred to Subchapter B, Chapter 415, Labor Code, and redesignated as Section 415.0215, Labor Code, to read as follows:

Sec. 415.0215 [~~402.072~~]. SANCTIONS. (a) The division may impose sanctions against any person regulated by the division under this subtitle.

(b) Only the commissioner may impose:

(1) a sanction that deprives a person of the right to practice before the division or of the right to receive remuneration under this subtitle for a period exceeding 30 days; or

(2) another sanction suspending for more than 30 days or revoking a license, certification, or permit required for practice in the field of workers' compensation.

(c) A sanction imposed by the division is binding pending appeal.

SECTION 34. Sections 415.025, 415.032, 415.033, and 415.034, Labor Code, are amended to read as follows:

Sec. 415.025. REFERENCES TO A CLASS OF VIOLATION OR PENALTY. A reference in this code or other law, or in rules of the former Texas Workers' Compensation Commission or the commissioner, to a particular class of violation, administrative violation, or penalty shall be construed as a reference to an administrative penalty. An [~~Except as otherwise provided by this subtitle, an~~] administrative penalty may not exceed \$25,000 per day per occurrence. Each day of noncompliance constitutes a separate violation.

Sec. 415.032. NOTICE OF POSSIBLE ADMINISTRATIVE VIOLATION; RESPONSE. (a) If investigation by the division indicates that an administrative violation has occurred, the division shall notify the person alleged to have committed the violation in writing of:

- (1) the charge;
- (2) the proposed sanction [~~penalty~~];
- (3) the right to consent to the charge and the sanction [~~penalty~~]; and
- (4) the right to request a hearing.

(b) Not later than the 20th day after the date on which notice is received, the charged party shall:

- (1) remit the amount of the sanction [~~penalty~~] to the division or otherwise consent to the imposed sanction; or
- (2) submit to the division a written request for a hearing.

Sec. 415.033. FAILURE TO RESPOND. If, without good cause, a charged party fails to respond as required under Section 415.032, [~~the penalty is due and~~] the division shall initiate enforcement proceedings.

Sec. 415.034. HEARING PROCEDURES. [~~(a)~~] On the request of the charged party or the commissioner, the State Office of Administrative Hearings shall set a hearing. The hearing shall be conducted in the manner provided for a contested case under Chapter 2001, Government Code (the administrative procedure law).

~~[(b) At the close of the hearing, the hearing officer conducting the hearing shall make findings of fact and conclusions of law and shall issue a written decision. If the hearing officer determines that an administrative violation has occurred, the hearing officer shall include in the decision the amount of the administrative penalty assessed and shall order payment of the penalty.~~

~~[(c) The findings of fact, the decision, and the order shall be sent immediately to the charged party.]~~

SECTION 35. Subchapter C, Chapter 415, Labor Code, is amended by adding Section 415.036 to read as follows:

Sec. 415.036. STANDARD OF JUDICIAL REVIEW OF COMMISSIONER'S ORDER. An order of the commissioner is subject to judicial review under the substantial evidence rule.

SECTION 36. Subchapter C, Chapter 504, Labor Code, is amended by adding Sections 504.054, 504.055, and 504.056 to read as follows:

Sec. 504.054. CONTESTED CASE HEARING ON AND JUDICIAL REVIEW OF INDEPENDENT REVIEW. (a) A party to a medical dispute that remains unresolved after the review described by Section 504.053(d)(3) is entitled to a contested case hearing. A hearing under this subsection shall be conducted by the division in the same manner as a hearing conducted under Section 413.0311.

(b) The hearing officer conducting the contested case hearing under Subsection (a) shall consider any treatment guidelines adopted by the political subdivision or pool that provides medical benefits under Section 504.053(b)(2) if those guidelines meet the standards provided by Section 413.011(e).

(c) A party that has exhausted all administrative remedies under Subsection (a) and is aggrieved by a final decision of the division may seek judicial review of the decision.

(d) Judicial review under Subsection (c) shall be conducted in the manner provided for judicial review of a contested case under Subchapter G, Chapter 2001, Government Code, and is governed by the substantial evidence rule.

(e) A decision of the independent review organization is binding during the pendency of a dispute.

Sec. 504.055. EXPEDITED PROVISION OF MEDICAL BENEFITS FOR CERTAIN INJURIES SUSTAINED BY FIRST RESPONDER IN COURSE AND SCOPE OF EMPLOYMENT. (a) In this section, "first responder" means:

(1) an individual employed by a political subdivision of this state who is:

(A) a peace officer under Article 2.12, Code of Criminal Procedure;

(B) a person licensed under Chapter 773, Health and Safety Code, as an emergency care attendant, emergency medical technician, emergency medical technician-intermediate, emergency medical technician-paramedic, or licensed paramedic; or

(C) a firefighter subject to certification by the Texas Commission on Fire Protection under Chapter 419, Government Code, whose principal duties are firefighting and aircraft crash and rescue; or

(2) an individual covered under Section 504.012(a) who is providing volunteer services to a political subdivision of this state as:

(A) a volunteer firefighter, without regard to whether the volunteer firefighter is certified under Subchapter D, Chapter 419, Government Code; or

(B) an emergency medical services volunteer, as defined by Section 773.003, Health and Safety Code.

(b) This section applies only to a first responder who sustains a serious bodily injury, as defined by Section 1.07, Penal Code, in the course and scope of employment. For purposes of this section, an injury sustained in the course and scope of employment includes an injury sustained by a first responder providing services on a volunteer basis.

(c) The political subdivision, division, and insurance carrier shall accelerate and give priority to an injured first responder's claim for medical benefits, including all health care required to cure or relieve the effects naturally resulting from a compensable injury described by Subsection (b).

(d) The division shall accelerate, under rules adopted by the commissioner of workers' compensation, a contested case hearing requested by or an appeal submitted by a first responder regarding the denial of a claim for medical benefits, including all health care required to cure or relieve the effects naturally resulting from a compensable injury described by Subsection (b). The first responder shall provide notice to the division and independent review organization that the contested case or appeal involves a first responder.

(e) Except as otherwise provided by this section, a first responder is entitled to review of a medical dispute in the manner provided by Section 504.054.

Sec. 504.056. INTENT OF EXPEDITED PROVISION OF MEDICAL BENEFITS FOR CERTAIN INJURIES SUSTAINED BY FIRST RESPONDER IN COURSE AND SCOPE OF EMPLOYMENT. The purpose of Section 504.055 is to ensure that an injured first responder's claim for medical benefits is accelerated by a political subdivision, insurance carrier, and the division to the full extent authorized by current law.

SECTION 37. The following provisions of the Labor Code are repealed:

- (1) Section 413.031(l);
- (2) Sections 415.0035(c), (d), and (f);
- (3) Section 415.0036(c);
- (4) Section 415.004;
- (5) Section 415.008(b); and
- (6) Section 415.022.

SECTION 38. Sections 1305.355(e), (f), and (g), Insurance Code, as amended by this Act, and Section 1305.356, Insurance Code, as added by this Act, apply to a medical dispute based on a review by an independent review organization under Section 1305.355 that is commenced on or after June 1, 2012. A dispute based on a review by an independent review organization under Section 1305.355 that is commenced before June 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.

SECTION 39. (a) Section 402.073, Labor Code, as amended by this Act, applies only to an administrative hearing that is conducted on or after the effective date of this Act. An administrative hearing conducted before the effective date of this Act is governed by the law in effect when the hearing was conducted, and the former law is continued in effect for that purpose.

(b) The State Office of Administrative Hearings and the division of workers' compensation of the Texas Department of Insurance shall adopt an updated memorandum of understanding required by Section 402.073, Labor Code, as amended by this Act, not later than June 1, 2012.

SECTION 40. Section 403.001, Labor Code, as amended by this Act, and Section 403.008, Labor Code, as added by this Act, apply only to an administrative penalty assessed for an administrative violation that occurs on or after the effective date of this Act. An administrative penalty assessed for an administrative violation that occurred before the effective date of this Act is governed by the law in effect when the violation occurred, and the former law is continued in effect for that purpose.

SECTION 41. (a) The commissioner of workers' compensation shall adopt the rules regarding certification of designated doctors required by Section 408.1225, Labor Code, as amended by this Act, not later than January 1, 2013.

(b) A designated doctor is not required to obtain certification under Section 408.1225, Labor Code, as amended by this Act, before January 1, 2013.

(c) Sections 408.1225(b), 413.044(b), and 413.0512(c), Labor Code, as amended by this Act, apply only to a disciplinary action taken against a designated doctor on or after January 1, 2013. A disciplinary action taken against

a designated doctor before that date is governed by the law as it existed immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

(d) Section 408.0041(b), Labor Code, as amended by this Act, and Section 408.0041(b-1), Labor Code, as added by this Act, apply only to a medical examination by a designated doctor that occurs on or after January 1, 2013. A medical examination that occurs before that date is governed by the law as it existed immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

SECTION 42. The change in law made by this Act in amending Sections 409.021, 415.0035, 415.008, 415.009, 415.010, 415.021, 415.025, 415.032, 415.033, and 415.034, Labor Code, and Sections 2051.151 and 2053.206, Insurance Code, adding Section 415.0211, Labor Code, and repealing Sections 415.0035(c), (d), and (f), 415.0036(c), 415.004, 415.008(b), and 415.022, Labor Code, applies only to an administrative violation that occurs on or after the effective date of this Act. An administrative violation that occurs before the effective date of this Act is governed by the law in effect on the date the violation occurred, and the former law is continued in effect for that purpose.

SECTION 43. Sections 410.023 and 410.028, Labor Code, as amended by this Act, apply only to a benefit review conference requested on or after the effective date of this Act. A benefit review conference requested before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 44. Sections 413.031(k) and (k-1) and 413.0311(a), Labor Code, as amended by this Act, and Section 413.0312, Labor Code, as added by this Act, apply only to the appeal of a medical fee dispute under those sections that is based on a review conducted by the division of workers' compensation of the Texas Department of Insurance on or after June 1, 2012. The appeal of a medical fee dispute that is based on a review conducted by the division of workers' compensation before June 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.

SECTION 45. Section 414.005, Labor Code, as amended by this Act, applies only to an investigation or review conducted on or after the effective date of this Act. An investigation or review conducted before the effective date of this Act is governed by the law in effect when the investigation or review was conducted, and the former law is continued in effect for that purpose.

SECTION 46. Section 415.036, Labor Code, as added by this Act, applies only to an order of the commissioner of workers' compensation issued on or after the effective date of this Act. An order of the commissioner that was issued before the effective date of this Act is governed by the law in effect when the order was issued, and the former law is continued in effect for that purpose.

SECTION 47. Section 504.055, Labor Code, as added by this Act, applies only to a claim for workers' compensation benefits based on a compensable injury that occurs on or after the effective date of this Act. A claim based on a

compensable injury that occurs before that date is governed by the law in effect on the date the compensable injury occurred, and the former law is continued in effect for that purpose.

SECTION 48. This Act takes effect September 1, 2011.

Representative L. Taylor moved to adopt the conference committee report on **HB 2605**.

The motion to adopt the conference committee report on **HB 2605** prevailed by (Record 1678): 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; 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; 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; Ritter(C).

Absent — Eissler.

STATEMENT OF VOTE

When Record No. 1678 was taken, I was in the house but away from my desk. I would have voted yes.

Eissler

SB 542 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Fletcher submitted the conference committee report on **SB 542**.

Representative Fletcher moved to adopt the conference committee report on **SB 542**.

The motion to adopt the conference committee report on **SB 542** prevailed by (Record 1679): 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.; 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; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent — Strama.

HR 2647 - ADOPTED
(by Bonnen)

The following privileged resolution was laid before the house:

HR 2647

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 652** (governmental and certain quasi-governmental entities subject to the sunset review process) 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 matters not included in either the house or senate version of the bill by adding the following:

SECTION 1.07. RAILROAD COMMISSION OF TEXAS. (a) Section 81.01001, Natural Resources Code, is amended to read as follows:

Sec. 81.01001. **SUNSET PROVISION.** The Railroad Commission of Texas is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission is abolished September 1, 2013 ~~[2014]~~.

(b) This section takes effect only if the 82nd Legislature, Regular Session, 2011, does not enact other legislation that becomes law and that amends Section 81.01001, Natural Resources Code, to extend the sunset date of the Railroad Commission of Texas. If the 82nd Legislature, Regular Session, 2011, enacts legislation of that kind, this section has no effect.

(c) The review of the Railroad Commission of Texas by the Sunset Advisory Commission in preparation for the work of the 83rd Legislature in Regular Session is not limited to the appropriateness of recommendations made by the commission to the 82nd Legislature. In the commission's report to the 83rd Legislature, the commission may include any recommendations it considers appropriate.

SECTION 1.08. PUBLIC UTILITY COMMISSION OF TEXAS. (a) Section 12.005, Utilities Code, is amended to read as follows:

Sec. 12.005. APPLICATION OF SUNSET ACT. The Public Utility Commission of Texas is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter or by Chapter 39, the commission is abolished and this title expires September 1, 2013 [~~2014~~].

(b) This section takes effect only if the 82nd Legislature, Regular Session, 2011, does not enact other legislation that becomes law and that amends Section 12.005, Utilities Code, to extend the sunset date of the Public Utility Commission of Texas. If the 82nd Legislature, Regular Session, 2011, enacts legislation of that kind, this section has no effect.

SECTION 1.09. ELECTRIC RELIABILITY COUNCIL OF TEXAS. (a) Section 39.151, Utilities Code, is amended by adding Subsections (n) and (n-1) to read as follows:

(n) An independent organization certified by the commission under this section is subject to review under Chapter 325, Government Code (Texas Sunset Act), but is not abolished under that chapter. The independent organization shall be reviewed during the periods in which the Public Utility Commission of Texas is reviewed.

(n-1) Notwithstanding Subsection (n), an independent organization certified by the commission under this section is not subject to review in preparation for the work of the 83rd Legislature in Regular Session. This subsection expires September 1, 2013.

(b) This section takes effect only if the 82nd Legislature, Regular Session, 2011, does not enact other legislation that becomes law and that amends Section 39.151, Utilities Code, to subject an independent organization certified by the Public Utility Commission of Texas under that section to sunset review during the periods in which the commission is reviewed. If the 82nd Legislature, Regular Session, 2011, enacts legislation of that kind, this section has no effect.

SECTION 1.10. PORT OF HOUSTON AUTHORITY. Chapter 97, Acts of the 40th Legislature, 1st Called Session, 1927, is amended by adding Section 9 to read as follows:

Sec. 9. SUNSET REVIEW. (a) The Port of Houston Authority is subject to review under Chapter 325, Government Code (Texas Sunset Act), as if it were a state agency but may not be abolished under that chapter. The review shall be conducted as if the authority were scheduled to be abolished September 1, 2013.

(b) The reviews must assess the authority's governance, management, and operating structure, and the authority's compliance with legislative requirements.

(c) The authority shall pay the cost incurred by the Sunset Advisory Commission in performing a review of the authority under this section. The Sunset Advisory Commission shall determine the cost, and the authority shall pay the amount promptly on receipt of a statement from the Sunset Advisory Commission detailing the cost.

(d) This section expires September 1, 2013.

SECTION 2.01. REGIONAL EDUCATION SERVICE CENTERS. Subchapter A, Chapter 8, Education Code, is amended by adding Section 8.010 to read as follows:

Sec. 8.010. SUNSET PROVISION. Regional education service centers are subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the centers are abolished and this chapter expires September 1, 2015.

SECTION 6.02. OFFICE OF PUBLIC UTILITY COUNSEL. Section 13.002, Utilities Code, is amended to read as follows:

Sec. 13.002. APPLICATION OF SUNSET ACT. The Office of Public Utility Counsel is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the office is abolished and this chapter expires September 1, 2023 ~~[2011]~~.

ARTICLE 8. SUNSET ADVISORY COMMISSION

SECTION 8.01. REVIEW OF AGENCIES REVIEWED FOR THE 82nd LEGISLATURE. For a state agency that was reviewed by the Sunset Advisory Commission in preparation for the work of the 82nd Legislature in Regular Session and the abolition date of which was extended to 2013, the commission, unless expressly provided otherwise, shall limit its review of the agency in preparation for the work of the 83rd Legislature in Regular Session to the appropriateness of recommendations made by the commission to the 82nd Legislature. In the commission's report to the 83rd Legislature, the commission may include any recommendations it considers appropriate. This section expires September 1, 2013.

Explanation: This addition is necessary to change the sunset review date for various state agencies, to subject the Electric Reliability Council of Texas to sunset review during the periods in which the Public Utility Commission of Texas is reviewed, to subject the Port of Houston Authority and regional education service centers to sunset review, and to limit the review of state agencies that were reviewed by the Sunset Advisory Commission in preparation for the work of the 82nd Legislature in Regular Session.

HR 2647 was adopted by (Record 1680): 144 Yeas, 2 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; 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; Raymond; Reynolds; Riddle; 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 — Eiland; Quintanilla.

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

Absent — Flynn; Murphy.

STATEMENT OF VOTE

When Record No. 1680 was taken, I was in the house but away from my desk. I would have voted yes.

Flynn

SB 652 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Bonnen submitted the conference committee report on **SB 652**.

Representative Bonnen moved to adopt the conference committee report on **SB 652**.

The motion to adopt the conference committee report on **SB 652** prevailed by (Record 1681): 145 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, 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; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Raymond; Reynolds; Riddle; 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 — Quintanilla.

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

Absent — Hughes; McClendon.

STATEMENT OF VOTE

When Record No. 1681 was taken, I was in the house but away from my desk. I would have voted yes.

McClendon

HB 3726 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Guillen submitted the following conference committee report on **HB 3726**:

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 3726** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Van de Putte
Eltime
Uresti

Guillen
Kuempel
Deshotel
Larson

On the part of the senate

On the part of the house

HB 3726, A bill to be entitled An Act relating to the preservation and maintenance of the Alamo by the General Land Office.

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

SECTION 1. Subchapter C, Chapter 31, Natural Resources Code, is amended by adding Section 31.0515 to read as follows:

Sec. 31.0515. DUTIES RELATED TO THE ALAMO COMPLEX. The land office shall:

(1) employ staff necessary to preserve and maintain the Alamo complex and contract for professional services of qualified consultants; and

(2) prepare an annual budget and work plan, including preservation, future construction, and usual maintenance for the Alamo complex, including buildings on the Alamo property, their contents, and their grounds.

SECTION 2. Chapter 31, Natural Resources Code, is amended by adding Subchapter I to read as follows:

SUBCHAPTER I. THE ALAMO COMPLEX

Sec. 31.451. PRESERVATION AND MAINTENANCE OF ALAMO. (a) The Alamo complex is under the jurisdiction of the land office. The land office is responsible for the preservation, maintenance, and restoration of the Alamo complex and its contents and the protection of the historical and architectural integrity of the exterior, interior, and grounds of the Alamo complex.

(b) Any power or duty related to the Alamo complex formerly vested in any other state agency or entity is vested solely in the land office.

(c) Notwithstanding any other law, the land office is not required to comply with state purchasing law in carrying out its duties under this subchapter.

(d) The land office may participate in the establishment of and partner with a qualifying nonprofit organization the purposes of which include raising funds for or providing services or other benefits for the preservation and maintenance of the Alamo complex. The land office may contract with the organization for the performance of any activity.

Sec. 31.452. ASSISTANCE FROM STATE PRESERVATION BOARD. The land office may consult with the State Preservation Board in the performance of duties under this subchapter. On request of the land office, the State Preservation Board shall assist the land office with the land office's duties relating to the Alamo complex.

Sec. 31.453. AGREEMENT WITH DAUGHTERS OF THE REPUBLIC OF TEXAS. (a) The land office shall enter into an agreement with the Daughters of the Republic of Texas for the management, operation, and financial support of the Alamo complex.

(b) The agreement at a minimum must:

(1) detail the expectations and goals of the land office and the Daughters of the Republic of Texas, including the transfer of any state money held in trust for the Alamo by the Daughters of the Republic of Texas and the property described in Subsection (d);

(2) outline the management and operation of the Alamo complex;

(3) establish management standards;

(4) provide for oversight by the land office;

(5) address funding and payment for costs;

(6) address equipment;

(7) establish insurance requirements;

(8) address compliance with local, state, and federal building and operation laws;

(9) address construction, maintenance, and repair;

(10) establish the term of the agreement;

(11) require submission of financial information from the Daughters of the Republic of Texas, excluding chapters of the organization;

(12) address ownership by this state of the Alamo complex and its contents;

(13) include a dispute resolution process;

(14) provide that the laws of this state govern the agreement; and

(15) include notice requirements.

(c) The land office may enter into the agreement required by Subsection (a) only if the Daughters of the Republic of Texas is a properly formed nonprofit corporation in this state in accordance with Section 2.008, Business Organizations Code, and is exempt from income taxation under Section 501(c)(3), Internal Revenue Code of 1986.

(d) All property received by the Daughters of the Republic of Texas in its capacity as custodian or trustee of the Alamo for the benefit of the Alamo is subject to the requirements of this subchapter and the agreement required by this section.

Sec. 31.454. THE ALAMO COMPLEX ACCOUNT. (a) The Alamo complex account is a separate account in the general revenue fund.

(b) The account consists of:

(1) transfers made to the account;

(2) fees and other revenue from operation of the Alamo complex;

(3) grants, donations, and bequests from any source designated for the benefit of the Alamo complex; and

(4) income earned on investments of money in the account.

(c) The land office may accept a gift, grant, or bequest of money, securities, services, or property to carry out any purpose related to the preservation and maintenance of the Alamo complex, including funds raised or services provided by a volunteer or volunteer group to promote the work of the land office. All proceeds under this subsection shall be deposited to the credit of the account.

(d) Appropriations to the land office for the preservation, operation, or maintenance of the Alamo complex shall be deposited to the credit of the account.

(e) The land office may use money in the account only to administer this subchapter, including to support the preservation, repair, renovation, improvement, expansion, equipping, operation, or maintenance of the Alamo complex or to acquire a historical item appropriate to the Alamo complex.

(f) Any money in the account not used in a fiscal year remains in the account. The account is exempt from the application of Section 403.095, Government Code.

Sec. 31.455. ALAMO PRESERVATION ADVISORY BOARD. (a) The land office may establish an Alamo Preservation Advisory Board to provide advice, proposals, and recommendations to:

(1) promote and support the Alamo complex;

(2) provide the resources and support necessary to advance the understanding and education of current and future generations on the historical significance and factual record of the Alamo complex;

(3) inspire virtues of honor and Texas pride;

(4) preserve the memory and achievement of individuals who served at the Alamo and provide a fitting tribute to the heroism of the people who paid the ultimate sacrifice for freedom and of the noble men and women of this state who have served in the armed forces or died while serving in the armed forces to ensure the freedom of the people of this state;

(5) promote and provide for the preservation, perpetuation, appropriate publication, and display of manuscripts, books, relics, pictures, oral histories, and all other items and information related to the history of the Alamo complex and of this state that preserve the historical character of the Alamo shrine; and

(6) promote, counsel, and provide support to governmental and private organizations that are committed to objectives similar to the objectives described in this subsection.

(b) The advisory board is composed of:

(1) the commissioner or the commissioner's designee, who serves as the presiding officer of the advisory board;

(2) a designee appointed by the governor;

(3) the president general of the Daughters of the Republic of Texas;

(4) the current Alamo chairperson of the Daughters of the Republic of Texas;

(5) the immediate past Alamo chairperson of the Daughters of the Republic of Texas;

(6) the Alamo curator;

(7) one representative of the Texas Historical Commission;

(8) the president of the Bexar County Historical Commission; and

(9) one representative who serves as a member of the City of San Antonio Office of Historic Preservation.

(c) Subject to approval by the advisory board, the advisory board may include nonvoting members, who as individuals or as representatives of institutions, are interested in the purposes for which the advisory board was established.

SECTION 3. Section 2203.003(a), Government Code, is amended to read as follows:

(a) The Daughters of the Confederacy, Texas Division, and the Daughters of the Republic of Texas each may charge admission to state property over which each organization has custody or control. ~~[This subsection does not apply to the Alamo.]~~

SECTION 4. The following are repealed:

(1) Article 6394, Revised Civil Statutes of 1911; and

(2) Chapter 7, General Laws, Acts of the 29th Legislature, Regular Session, 1905.

SECTION 5. (a) If the General Land Office and the Daughters of the Republic of Texas have not entered into the agreement required by Section 31.453, Natural Resources Code, as added by this Act, before January 1, 2012, on that date the following are transferred to the land office:

(1) all powers and duties of the Daughters of the Republic of Texas relating to the Alamo complex;

(2) all unobligated and unexpended funds granted to the Daughters of the Republic of Texas and designated for the benefit of the Alamo complex;

(3) all equipment and property acquired with state money by the Daughters of the Republic of Texas and used for the administration of or related to the Alamo complex; and

(4) all files and other records of the Daughters of the Republic of Texas kept by the organization regarding the Alamo complex.

(b) The Daughters of the Republic of Texas may agree with the General Land Office to transfer any property of the Daughters of the Republic of Texas to the General Land Office before January 1, 2012, to implement the transfer required by this Act.

(c) Notwithstanding any other law, unless otherwise provided pursuant to a contract entered into under Section 31.453, Natural Resources Code, as added by this Act, the Daughters of the Republic of Texas shall continue to perform functions and activities related to the Alamo and granted by Chapter 7, General Laws, Acts of the 29th Legislature, Regular Session, 1905, until January 1, 2012, and the former law is continued in effect for that purpose.

SECTION 6. This Act takes effect September 1, 2011.

Representative Guillen moved to adopt the conference committee report on **HB 3726**.

The motion to adopt the conference committee report on **HB 3726** prevailed by (Record 1682): 144 Yeas, 3 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.; 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.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; 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; 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; King, S.; Lavender.

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

Absent — King, T.

HB 753 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Raymond submitted the following conference committee report on **HB 753**:

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 753** 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
Rodriguez
Carona
Eltife

Raymond
Gonzalez
Hunter

On the part of the senate

On the part of the house

HB 753, A bill to be entitled An Act relating to the recruitment and retention of certain caseworkers employed by the Department of Family and Protective Services.

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

SECTION 1. Subchapter B, Chapter 40, Human Resources Code, is amended by adding Sections 40.0327 and 40.0328 to read as follows:

Sec. 40.0327. PREEMPLOYMENT ASSESSMENT; PREFERENCE.

(a) The department shall use special assessment tools in screening applicants for employment with the child protective services division in order to match an applicant with the position in the division for which an applicant would be best suited based on the applicant's skills, personality traits, and experience.

(b) The department shall give favorable consideration to an applicant for an entry-level caseworker position who has a master's degree or bachelor's degree in social work over other applicants who have comparable skills.

Sec. 40.0328. SALARY STUDY. (a) The department shall study the salaries of each type of child protective services caseworker to determine the role salary plays in the recruitment and retention of caseworkers and in the turnover rate for each type of caseworker.

(b) Not later than December 1, 2012, the department shall report the results of the study and any recommendations to the governor, lieutenant governor, speaker of the house of representatives, and standing committee of each house of the legislature with jurisdiction over the department.

(c) The commission shall consider contracting with an institution of higher education, as defined by Section 61.003, Education Code, to perform the study required by this section.

(d) 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.

Representative Raymond moved to adopt the conference committee report on **HB 753**.

The motion to adopt the conference committee report on **HB 753** prevailed by (Record 1683): 116 Yeas, 27 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, R.; Berman; Branch; Brown; Burnam; 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; Frullo; Gallego; Garza; Geren; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harper-Brown; Hartnett; Hernandez Luna; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, T.; Kleinschmidt; Kuempel; Larson; Laubenber; Lewis; Lozano; Lucio; Lyne; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Peña; Pickett; Pitts; Quintanilla; Raymond; Reynolds; Riddle; Rodriguez; Scott; Sheets; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Veasey; Villarreal; Vo; Walle; Woolley; Zerwas.

Nays — Aycock; Beck; Bohac; Bonnen; Burkett; Button; Cain; Fletcher; Flynn; Harless; Hilderbran; Hughes; King, S.; Kolkhorst; Landtroop; Lavender; Legler; Madden; Paxton; Perry; Phillips; Price; Schwertner; Sheffield; Weber; White; Zedler.

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

Absent — Anderson, C.; Giddings; Miller, S.; Turner; Workman.

STATEMENTS OF VOTE

When Record No. 1683 was taken, I was in the house but away from my desk. I would have voted no.

C. Anderson

I was shown voting no on Record No. 1683. I intended to vote yes.

Bohac

I was shown voting yes on Record No. 1683. I intended to vote no.

Hunter

I was shown voting yes on Record No. 1683. I intended to vote no.

Parker

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).

SB 1816 - MOTION TO ADOPT CONFERENCE COMMITTEE REPORT

Representative Raymond submitted the conference committee report on **SB 1816**.

Representative Raymond moved to adopt the conference committee report on **SB 1816**.

The motion to adopt the conference committee report on **SB 1816** was lost by (Record 1684): 56 Yeas, 87 Nays, 3 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Burnam; Castro; Coleman; Davis, Y.; Dukes; Dutton; Eiland; Eissler; Farias; Farrar; Gallego; Giddings; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hardcastle; Hartnett; Hernandez Luna; Hochberg; Howard, D.; Isaac; Jackson; Johnson; King, T.; Lewis; Lozano; Lucio; Lyne; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Muñoz; Naishtat; Oliveira; Pickett; Quintanilla; Raymond; Reynolds; Rodriguez; Strama; Thompson; Turner; Veasey; Villarreal; Vo; Walle.

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

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

Absent — Christian; Deshotel; Hunter; Peña.

STATEMENTS OF VOTE

When Record No. 1684 was taken, I was in the house but away from my desk. I would have voted no.

Hunter

I was shown voting no on Record No. 1684. I intended to vote yes.

Larson

SB 1664 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Truitt submitted the conference committee report on **SB 1664**.

Representative Truitt moved to adopt the conference committee report on **SB 1664**.

The motion to adopt the conference committee report on **SB 1664** prevailed by (Record 1685): 128 Yeas, 17 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Aycock; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Callegari; Castro; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hunter; Isaac; Jackson; Keffer; King, P.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; 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; Peña; Perry; Pickett; Price; Quintanilla; Raymond; Reynolds; Riddle; Rodriguez; Schwertner; Scott; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Workman; Zerwas.

Nays — Aliseda; Anderson, R.; Beck; Cain; Carter; Garza; Gooden; Hughes; Johnson; King, S.; Laubenberg; Lavender; Paxton; Phillips; Sheets; White; Zedler.

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

Absent — Elkins; Harper-Brown; Pitts.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1685. I intended to vote no.

Legler

When I voted for adoption of the conference committee report on **SB 1664** on Record No. 1685, I was shown voting aye. I intended to vote nay because of the removal of the Johnson amendment in the conference committee. The Johnson amendment would have provided that an elected official convicted of bribery, embezzlement, extortion, or other theft of public money, perjury, or conspiracy or the attempt to commit any of the above crimes while in office and arising directly from the official duties of that elected office would no longer qualify to receive a service retirement annuity.

Simpson

REASON FOR VOTE

I voted against adoption of the conference committee report on **SB 1664** because the conference committee removed an amendment to the bill passed by the house which would require state legislators who are convicted of corruption-related felonies directly tied to their official duties to forfeit their ERS

Elected Class pension benefits. This amendment passed out of the senate unanimously as **SB 371** and passed out of the House Committee on Pensions, Investments, and Financial Services twice, as both **SB 371** and **HB 246**. I believe that taxpayer funded pension benefits should be awarded to elected officials on the condition of honorable service. This commonsense amendment would ensure that the people of Texas have the utmost faith in the work we do in the Texas House. Therefore, I have cast my vote against adopting the conference committee report for **SB 1664**.

Aliseda, R. Anderson, Beck, Carter, Garza, Gooden, Johnson,
S. King, Laubenberg, Lavender, Paxton, and Sheets

HR 2691 - ADOPTED

(by J. Davis)

The following privileged resolution was laid before the house:

HR 2691

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 2457** (the Texas Enterprise Fund and the Texas emerging technology fund) 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 SECTION 1 of the bill, in added Section 481.078(h-1), Government Code, to read as follows:

(h-1) At least 14 days before the date the governor intends to amend a grant agreement, the governor shall notify and provide a copy of the proposed amendment to the speaker of the house of representatives and the lieutenant governor.

Explanation: This change is necessary to remove the requirement that the governor notify and provide a copy of a proposed amendment to a grant agreement to the presiding officers of the standing committees of both houses of the legislature with primary jurisdiction over economic development.

(2) House Rule 13, Section 9(a)(4), is suspended to permit the committee to add text on a matter which is not included in either the house or senate version of the bill, in SECTION 6 of the bill, by adding the following subsections in added Section 490.0521, Government Code, to read as follows:

(b) All information obtained and maintained pursuant to Subsection (a), including information derived from the financial statements, is confidential and is not subject to disclosure under Chapter 552, Government Code.

(c) The governor, on request or in the normal course of official business, shall provide information that is confidential under Subsection (b) to the Texas State Auditor's Office.

(d) This section does not affect release of information for legislative purposes pursuant to Section 552.008, Government Code.

Explanation: This change is necessary to ensure that information disclosed in the verified financial statement required under Section 490.0521, Government Code, is considered confidential and not subject to disclosure under Chapter 552, Government Code, and will be, on request or in the normal course of official business, provided by the governor to the Texas State Auditor's Office. In addition, the change is necessary to clarify that the section does not affect the release of information for legislative purposes.

HR 2691 was adopted by (Record 1686): 147 Yeas, 0 Nays, 3 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; 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; 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; Hernandez Luna; Ritter(C).

HB 2457 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative J. Davis submitted the following conference committee report on **HB 2457**:

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 2457** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Jackson
Fraser
Eltife

J. Davis
Reynolds
Murphy

Watson

On the part of the senate

Peña

On the part of the house

HB 2457, A bill to be entitled An Act relating to the Texas Enterprise Fund and the Texas emerging technology fund.

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

SECTION 1. Section 481.078, Government Code, is amended by amending Subsections (e) and (j) and adding Subsections (f-1), (f-2), and (h-1) to read as follows:

(e) The administration of the fund is considered to be a trustee program within the office of the governor. The governor may negotiate on behalf of the state regarding awarding, by grant, money appropriated from the fund. The governor may award money appropriated from the fund only with the ~~[express written]~~ prior approval of the lieutenant governor and speaker of the house of representatives. For purposes of this subsection, an award of money appropriated from the fund is considered disapproved by the lieutenant governor or speaker of the house of representatives if that officer does not approve the proposal to award the grant before the 91st day after the date of receipt of the proposal from the governor. The lieutenant governor or the speaker of the house of representatives may extend the review deadline applicable to that officer for an additional 14 days by submitting a written notice to that effect to the governor before the expiration of the initial review period.

(f-1) A grant agreement must contain a provision:

(1) requiring the creation of a minimum number of jobs in this state;

and

(2) specifying the date by which the recipient intends to create those

jobs.

(f-2) A grant agreement must contain a provision providing that if the recipient does not meet job creation performance targets as of the dates specified in the agreement, the recipient shall repay the grant in accordance with Subsection (j).

(h-1) At least 14 days before the date the governor intends to amend a grant agreement, the governor shall notify and provide a copy of the proposed amendment to the speaker of the house of representatives and the lieutenant governor.

(j) Repayment of a grant under Subsection (f)(1)(A) shall ~~may~~ be prorated to reflect a partial attainment of job creation performance targets, and may be prorated for a partial attainment of other performance targets.

SECTION 2. Sections 490.005(a) and (b), Government Code, are amended to read as follows:

(a) Not later than January 31 ~~[+]~~ of each year, the governor shall submit to the lieutenant governor, the speaker of the house of representatives, and the standing committee of each house of the legislature with primary jurisdiction over economic development matters and post on the office of the governor's Internet website a report that includes the following information regarding awards made under the fund during each ~~[for the]~~ preceding ~~[three]~~ state fiscal year ~~[years]~~:

(1) the total number and amount of awards made;

(2) the number and amount of awards made under Subchapters D, E, and F;

(3) the aggregate total of private sector investment, federal government funding, and contributions from other sources obtained in connection with awards made under each of the subchapters listed in Subdivision (2);

(4) the name of each award recipient and the amount of the award made to the recipient; and

(5) a brief description of the equity position that the governor, on behalf of the state, may take in companies receiving awards and the names of the companies in which the state has taken an equity position.

(b) The annual report must also contain:

(1) the total number of jobs actually created by each project receiving funding under this chapter;

(2) an analysis of the number of jobs actually created by each project receiving funding under this chapter; and

(3) a brief description regarding:

(A) the methodology used to determine the information provided under Subdivisions (1) and (2), which may be developed in consultation with the comptroller's office;

(B) ~~[(4)]~~ the intended outcomes of projects funded under Subchapter D during each ~~[the]~~ preceding ~~[two]~~ state fiscal year ~~[years]~~; and

(C) ~~[(2)]~~ the actual outcomes of all projects funded under Subchapter D during each preceding state fiscal year ~~[the fund's existence]~~, including any financial impact on the state resulting from a liquidity event involving a company whose project was funded under that subchapter.

SECTION 3. Subchapter A, Chapter 490, Government Code, is amended by adding Section 490.006 to read as follows:

Sec. 490.006. VALUATION OF INVESTMENTS; INCLUSION IN ANNUAL REPORT. To the maximum extent practicable, the office of the governor shall annually perform a valuation of the equity positions taken by the governor, on behalf of the state, in companies receiving awards under the fund and of other investments made by the governor, on behalf of the state, in connection with an award under the fund. The valuation must:

(1) be based on a methodology that:

(A) may be developed in consultation with the comptroller's office;
and

(B) is consistent with generally accepted accounting principles; and

(2) be included with the annual report required under Section 490.005.

SECTION 4. The heading to Section 490.052, Government Code, is amended to read as follows:

Sec. 490.052. APPOINTMENT TO COMMITTEE ~~[BY GOVERNOR]~~; NOMINATIONS.

SECTION 5. Section 490.052, Government Code, is amended by amending Subsection (a) and adding Subsections (a-1) and (a-2) to read as follows:

(a) The governor shall appoint to the committee 13 individuals nominated as provided by Subsection (b).

(a-1) The lieutenant governor shall appoint two individuals to the committee.

(a-2) The speaker of the house of representatives shall appoint two individuals to the committee.

SECTION 6. Subchapter B, Chapter 490, Government Code, is amended by adding Section 490.0521 to read as follows:

Sec. 490.0521. FINANCIAL STATEMENT REQUIRED. (a) Each member of the committee shall file with the office of the governor a verified financial statement complying with Sections 572.022 through 572.0252 as is required of a state officer by Section 572.0252.

(b) All information obtained and maintained pursuant to Subsection (a), including information derived from the financial statements, is confidential and is not subject to disclosure under Chapter 552, Government Code.

(c) The governor, on request or in the normal course of official business, shall provide information that is confidential under Subsection (b) to the Texas State Auditor's Office.

(d) This section does not affect release of information for legislative purposes pursuant to Section 552.008, Government Code.

SECTION 7. Section 490.054, Government Code, is amended to read as follows:

Sec. 490.054. TERMS. (a) Members of the committee appointed by the governor serve staggered two-year terms, subject to the pleasure of the governor.

(b) Members of the committee appointed by the lieutenant governor or the speaker of the house of representatives serve two-year terms.

SECTION 8. Section 490.056, Government Code, is amended by adding Subsections (c), (d), and (e) to read as follows:

(c) Each entity recommended by the committee for an award of money from the fund as provided by this chapter shall obtain and provide the following information to the office of the governor:

(1) a federal criminal history background check for each principal of the entity;

(2) a state criminal history background check for each principal of the entity;

(3) a credit check for each principal of the entity;

(4) a copy of a government-issued form of photo identification for each principal of the entity; and

(5) information regarding whether the entity or a principal of the entity has ever been subject to a sanction imposed by the Securities and Exchange Commission for a violation of applicable federal law.

(d) For purposes of Subsection (c), "principal" means:

(1) an officer of an entity; or

(2) a person who has at least a 10 percent ownership interest in an entity.

(e) With each proposal to award funding submitted by the governor to the lieutenant governor and speaker of the house of representatives for purposes of obtaining prior approval, the governor shall provide each officer with a copy of the information provided by the appropriate entity under Subsection (c).

SECTION 9. Section 490.057, Government Code, is amended to read as follows:

Sec. 490.057. CONFIDENTIALITY. (a) Except as provided by Subsection (b), information ~~[information]~~ collected by the governor's office, the committee, or the committee's advisory panels concerning the identity, background, finance, marketing plans, trade secrets, or other commercially or academically sensitive information of an individual or entity being considered for, receiving, or having received an award from the fund is confidential unless the individual or entity consents to disclosure of the information.

(b) The following information collected by the governor's office, the committee, or the committee's advisory panels under this chapter is public information and may be disclosed under Chapter 552:

(1) the name and address of an individual or entity receiving or having received an award from the fund;

(2) the amount of funding received by an award recipient;

(3) a brief description of the project that is funded under this chapter;

(4) if applicable, a brief description of the equity position that the governor, on behalf of the state, has taken in an entity that has received an award from the fund; and

(5) any other information designated by the committee with the consent of:

(A) the individual or entity receiving or having received an award from the fund, as applicable;

(B) the governor;

(C) the lieutenant governor; and

(D) the speaker of the house of representatives.

SECTION 10. Section 490.101, Government Code, is amended by amending Subsection (f) and adding Subsection (f-1) to read as follows:

(f) The administration of the fund is considered to be a trustee program within the office of the governor. The governor may negotiate on behalf of the state regarding awards from the fund. The governor may award money appropriated from the fund only with the ~~[express written]~~ prior approval of the lieutenant governor and speaker of the house of representatives.

(f-1) For purposes of Subsection (f), an award of money appropriated from the fund is considered disapproved by the lieutenant governor or speaker of the house of representatives if that officer does not approve the proposal to award funding before the 91st day after the date of receipt of the proposal from the governor. The lieutenant governor or the speaker of the house of representatives may extend the review deadline applicable to that officer for an additional 14 days by submitting a written notice to that effect to the governor before the expiration of the initial review period.

SECTION 11. Subchapter D, Chapter 490, Government Code, is amended by adding Section 490.1521 to read as follows:

Sec. 490.1521. MINUTES OF CERTAIN MEETINGS. (a) Each regional center of innovation and commercialization established under Section 490.152, including the Texas Life Science Center for Innovation and Commercialization, shall keep minutes of each meeting at which applications for funding under this subchapter are evaluated. The minutes must:

(1) include the name of each applicant recommended by the regional center of innovation and commercialization to the committee for funding; and

(2) indicate the vote of each member of the governing body of the regional center of innovation and commercialization, including any recusal by a member and the member's reason for recusal, with regard to each application reviewed.

(b) Each regional center of innovation and commercialization shall retain a copy of the minutes of each meeting to which this section applies for at least three years.

SECTION 12. Section 203.021, Labor Code, is amended by adding Subsection (e) to read as follows:

(e) Money in the compensation fund may not be transferred to the:

(1) Texas Enterprise Fund created under Section 481.078, Government Code; or

(2) Texas emerging technology fund established under Section 490.101, Government Code.

SECTION 13. Section 204.123, Labor Code, is amended to read as follows:

Sec. 204.123. ~~TRANSFER TO [TEXAS ENTERPRISE FUND,] SKILLS DEVELOPMENT FUND, TRAINING STABILIZATION FUND, AND COMPENSATION FUND.~~ (a) If, on September 1 of a year, the commission determines that the amount in the compensation fund will exceed 100 percent of its floor as computed under Section 204.061 on the next October 1 computation date, the commission shall transfer from the holding fund created under Section 204.122:

~~(1) [from the first \$160 million deposited in the holding fund in any state fiscal biennium;~~

~~[(A) during the state fiscal biennium ending August 31, 2007;~~

~~[(i) 67 percent to the Texas Enterprise Fund created under Section 481.078, Government Code, except that the amount transferred under this paragraph may not exceed the amount appropriated by the legislature to the Texas Enterprise Fund in that biennium; and~~

~~[(ii) 33 percent to the skills development fund created under Section 303.003, except that the amount transferred under this paragraph may not exceed the amount appropriated by the legislature to the skills development program strategies and activities in that biennium; and~~

~~[(B)] during any state fiscal biennium beginning on or after September 1, 2007, 100 [;~~

~~[(i) 75 percent to the Texas Enterprise Fund created under Section 481.078, Government Code, except that the amount transferred under this paragraph may not exceed the amount appropriated by the legislature to the Texas Enterprise Fund in that biennium; and~~

~~[(ii) 25] percent to the skills development fund created under Section 303.003, except that the amount transferred under this subdivision [paragraph] may not exceed the amount appropriated by the legislature to the skills development program strategies and activities in that biennium; and~~

(2) any remaining amount in the holding fund after the distribution under Subdivision (1) to the training stabilization fund created under Section 302.101.

(b) If, on September 1 of a year, the commission determines that the amount in the compensation fund will be at or below 100 percent of its floor as computed under Section 204.061 on the next October 1 computation date, the commission shall transfer to the compensation fund as much of the amount in the holding fund as is necessary to raise the amount in the compensation fund to 100 percent of its floor, up to and including the entire amount in the holding fund. The commission shall transfer any remaining balance in the holding fund to the ~~[Texas Enterprise Fund, the]~~ skills development fund~~[-]~~ and the training stabilization fund in the manner ~~[in the percentages]~~ prescribed by Subsection (a).

SECTION 14. Sections 302.101(b) and (c), Labor Code, are amended to read as follows:

(b) Money in the training stabilization fund may be used in a year in which the amounts in the employment and training investment holding fund are insufficient to meet the legislative appropriation for that fiscal year for ~~[either the Texas Enterprise Fund or]~~ the skills development program strategies and activities.

(c) Money in the training stabilization fund shall be transferred to the ~~[Texas Enterprise Fund and the]~~ skills development fund under Subsection (b) not later than September 30. ~~[The transfer under Subsection (b) shall consist of transferring 67 percent of the money in the training stabilization fund to the Texas Enterprise Fund and 33 percent of the money in the training stabilization fund to the skills development fund.]~~ The amount transferred from the training stabilization fund may not exceed the amounts appropriated to the ~~[Texas Enterprise Fund and]~~ skills development program strategies and activities in the fiscal year in which the transfer is made.

SECTION 15. Sections 481.078(e) and 490.101(f), Government Code, as amended by this Act, and Section 490.101(f-1), Government Code, as added by this Act, apply only to a proposal for an award from the Texas Enterprise Fund or Texas emerging technology fund submitted by the governor to the lieutenant governor or speaker of the house of representatives for prior approval on or after the effective date of this Act. A proposal submitted by the governor for prior approval before the effective date of this Act is governed by the law in effect on the date the proposal was submitted for that approval, and the former law is continued in effect for that purpose.

SECTION 16. Section 481.078(j), Government Code, as amended by this Act, and Sections 481.078(f-1) and (f-2), Government Code, as added by this Act, apply only to a grant agreement that is entered into on or after the effective date of this Act. A grant agreement that is entered into before the effective date of this Act is governed by the law in effect on the date the agreement was entered into, and the former law is continued in effect for that purpose.

SECTION 17. (a) The terms of the members of the Texas Emerging Technology Advisory Committee serving immediately before the effective date of this Act expire September 1, 2011.

(b) As soon as practicable after this Act takes effect, the governor, lieutenant governor, and speaker of the house of representatives shall appoint members to the Texas Emerging Technology Advisory Committee established under Subchapter B, Chapter 490, Government Code, in a manner that complies with that subchapter, as amended by this Act.

(c) At the first meeting of members of the Texas Emerging Technology Advisory Committee established under Subchapter B, Chapter 490, Government Code, as amended by this Act, occurring on or after September 1, 2011, the members appointed by the governor shall draw lots to determine which six members will serve a term expiring September 1, 2012, and which seven members will serve a term expiring September 1, 2013.

SECTION 18. This Act takes effect September 1, 2011.

Representative J. Davis moved to adopt the conference committee report on **HB 2457**.

The motion to adopt the conference committee report on **HB 2457** prevailed by (Record 1687): 145 Yeas, 2 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; 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; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Workman; Zedler; Zerwas.

Nays — Simpson; White.

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

Absent — Hochberg.

HR 2721 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the chair announced the introduction of **HR 2721**, suspending the limitations on the conferees for **SB 40**.

HR 2723 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the chair announced the introduction of **HR 2723**, suspending the limitations on the conferees for **SB 1811**.

(Speaker in the chair)

SB 158 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Fletcher submitted the conference committee report on **SB 158**.

Representative Fletcher moved to adopt the conference committee report on **SB 158**.

The motion to adopt the conference committee report on **SB 158** prevailed (by Record 1688): 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; 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; 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 — Lyne; Simpson.

Present, not voting — Mr. Speaker(C).

Absent — Murphy.

HR 2550 - ADOPTED
(by Isaac)

The following privileged resolution was laid before the house:

HR 2550

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 1517**, (disposition of fines for traffic violations collected by certain counties and municipalities) to consider and take action on the following matter:

House Rule 13, Section 9(a)(3), is suspended to permit the committee, in SECTION 1 of the bill, in Section 542.402, Transportation Code, to add text on a matter which is not in disagreement to read as follows:

(g) This subsection and Subsection (f) expire on September 1, 2021.

Explanation: The addition is necessary for Section 542.402(f), Transportation Code, to expire on September 1, 2021.

HR 2550 was adopted by (Record 1689): 145 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; 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; 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; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent — Johnson; Naishtat; Torres; Turner.

STATEMENTS OF VOTE

When Record No. 1689 was taken, I was in the house but away from my desk. I would have voted yes.

Naishtat

When Record No. 1689 was taken, I was in the house but away from my desk. I would have voted yes.

Torres

HB 1517 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Isaac submitted the following conference committee report on **HB 1517**:

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 1517** 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
Wentworth
Zaffirini
Ellis
Huffman

On the part of the senate

Isaac
Phillips
Rodriguez
Kleinschmidt
Lozano
On the part of the house

HB 1517, A bill to be entitled An Act relating to the disposition of fines for traffic violations collected by certain counties and municipalities.

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

SECTION 1. Section 542.402, Transportation Code, is amended by amending Subsections (a), (c), and (e) and adding Subsections (b-1), (b-2), (d-1), (f), and (g) to read as follows:

(a) Except as provided by Subsection (b-1), a [A] municipality or county shall use a fine collected for a violation of a highway law in this title to:

(1) construct and maintain roads, bridges, and culverts in the municipality or county;

(2) enforce laws regulating the use of highways by motor vehicles; and

(3) defray the expense of county traffic officers.

(b-1) Subject to Subsection (b-2), a county may use a fine collected for a violation of a highway law as the county determines appropriate if:

(1) the county has a population of less than 5,000; and

(2) the commissioners court of the county by resolution elects to spend the revenue in a manner other than as provided by Subsection (a).

(b-2) In each fiscal year, a county described by Subsection (b-1) may retain, from fines collected for violations of this title and from special expenses collected under Article 45.051, Code of Criminal Procedure, in cases in which a violation of this title is alleged, an amount equal to 30 percent of the county's revenue for the preceding fiscal year from all sources, other than federal funds and bond

proceeds, as shown by an audit performed under Chapter 115, Local Government Code. After a county has retained that amount, the county shall send to the comptroller any portion of a fine or a special expense collected that exceeds \$1.

(c) The comptroller shall enforce Subsections ~~[Subsection]~~ (b) and (b-2).

(d-1) In a fiscal year in which a county retains from fines and special expenses collected for violations of this title an amount equal to at least 20 percent of the county's revenue for the preceding fiscal year from all sources other than federal funds and bond proceeds, not later than the 120th day after the last day of the county's fiscal year, the county shall send to the comptroller:

(1) a copy of the county's financial statement; and

(2) a report that shows the total amount collected for that fiscal year from fines and special expenses under Subsection (b-1).

(e) If an audit is conducted by the comptroller under Subsection (c) and it is determined that the municipality or county is retaining more than 20 percent of the amounts under Subsection (b) or (b-2), as applicable, and has not complied with Subsection (d) or (d-1), as applicable, the municipality shall pay the costs incurred by the comptroller in conducting the audit.

(f) A municipality may include the revenue generated from services provided in the municipality by a utility company operating within the municipality as municipal revenue for a fiscal year under Subsection (b) if:

(1) the municipality has a population of more than 1,000 but less than 1,200; and

(2) part of the municipality's boundary is a river that forms part of the boundary between two counties.

(g) This subsection and Subsection (f) expire on September 1, 2021.

SECTION 2. The change in law made by this Act in amending Section 542.402(e), Transportation Code, and in adding Sections 542.402(b-2) and (d-1), Transportation Code, applies only to the fiscal year of a county that begins on or after the effective date of this Act.

SECTION 3. This Act takes effect September 1, 2011.

Representative Isaac moved to adopt the conference committee report on **HB 1517**.

The motion to adopt the conference committee report on **HB 1517** prevailed by (Record 1690): 140 Yeas, 3 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; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; 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;

Marquez; Martinez; Martinez Fischer; Menendez; Miles; Miller, D.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Otto; Parker; Patrick; Paxton; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; 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 — Orr; Perry; Sheffield.

Present, not voting — Mr. Speaker(C).

Absent — Dukes; Hancock; Johnson; McClendon; Miller, S.; Peña.

STATEMENTS OF VOTE

When Record No. 1690 was taken, I was in the house but away from my desk. I would have voted yes.

Dukes

When Record No. 1690 was taken, I was in the house but away from my desk. I would have voted yes.

McClendon

When Record No. 1690 was taken, my vote failed to register. I would have voted yes.

S. Miller

HB 628 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Callegari submitted the following conference committee report on **HB 628**:

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 628** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Jackson
Fraser
Seliger
Van de Putte

On the part of the senate

Callegari
Hunter
P. King
Lucio
W. Smith

On the part of the house

HB 628, A bill to be entitled An Act relating to contracts by governmental entities and related professional services and to public works performance and payment bonds.

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

ARTICLE 1. PUBLIC WORKS PERFORMANCE AND PAYMENT BONDS

SECTION 1.01. Section 2253.021, Government Code, is amended by adding Subsection (h) to read as follows:

(h) A reverse auction procedure may not be used to obtain services related to a public work contract for which a bond is required under this section. In this subsection, "reverse auction procedure" has the meaning assigned by Section 2155.062 or a procedure similar to that described by Section 2155.062.

ARTICLE 2. CONTRACTS BY GOVERNMENTAL ENTITIES

SECTION 2.01. Section 11.168, Education Code, is amended to read as follows:

Sec. 11.168. **USE OF DISTRICT RESOURCES PROHIBITED FOR CERTAIN PURPOSES; EXCEPTION.** (a) Except as provided by Subsection (b) or Section 45.109(a-1) or [and] (a-2), the board of trustees of a school district may not enter into an agreement authorizing the use of school district employees, property, or resources for the provision of materials or labor for the design, construction, or renovation of improvements to real property not owned or leased by the district.

(b) This section does not prohibit the board of trustees of a school district from entering into an agreement for the design, construction, or renovation of improvements to real property not owned or leased by the district if the improvements benefit real property owned or leased by the district. Benefits to real property owned or leased by the district include the design, construction, or renovation of highways, roads, streets, sidewalks, crosswalks, utilities, and drainage improvements that serve or benefit the real property owned or leased by the district.

SECTION 2.02. Sections 44.031(a), (b), and (f), Education Code, are amended to read as follows:

(a) Except as provided by this subchapter, all school district contracts for the purchase of goods and services, except contracts for the purchase of produce or vehicle fuel, valued at \$50,000 or more in the aggregate for each 12-month period shall be made by the method, of the following methods, that provides the best value for the district:

- (1) competitive bidding for services other than construction services;
- (2) competitive sealed proposals for services other than construction services;
- (3) a request for proposals, for services other than construction services;
- (4) an interlocal contract;
- (5) a method provided by Chapter 2267, Government Code, for construction services [a design/build contract;
(6) a contract to construct, rehabilitate, alter, or repair facilities that involves using a construction manager;

~~[(7) a job order contract for the minor construction, repair, rehabilitation, or alteration of a facility];~~

~~(6) [(8)]~~ the reverse auction procedure as defined by Section 2155.062(d), Government Code; or

~~(7) [(9)]~~ the formation of a political subdivision corporation under Section 304.001, Local Government Code.

(b) Except as provided by this subchapter, in determining to whom to award a contract, the district shall consider:

- (1) the purchase price;
- (2) the reputation of the vendor and of the vendor's goods or services;
- (3) the quality of the vendor's goods or services;
- (4) the extent to which the goods or services meet the district's needs;
- (5) the vendor's past relationship with the district;
- (6) the impact on the ability of the district to comply with laws and rules relating to historically underutilized businesses;
- (7) the total long-term cost to the district to acquire the vendor's goods or services; ~~and~~

(8) for a contract for goods and services, other than goods and services related to telecommunications and information services, building construction and maintenance, or instructional materials, whether the vendor or the vendor's ultimate parent company or majority owner:

(A) has its principal place of business in this state; or

(B) employs at least 500 persons in this state; and

(9) any other relevant factor specifically listed in the request for bids or proposals.

(f) This section does not apply to a contract for professional services rendered, including services of an architect, attorney, certified public accountant, engineer, or fiscal agent. A school district may, at its option, contract for professional services rendered by a financial consultant or a technology consultant in the manner provided by Section 2254.003, Government Code, in lieu of the methods provided by this section.

SECTION 2.03. Subchapter B, Chapter 44, Education Code, is amended by adding Sections 44.0351 and 44.0352 to read as follows:

Sec. 44.0351. COMPETITIVE BIDDING. (a) Except to the extent prohibited by other law and to the extent consistent with this subchapter, a school district may use competitive bidding to select a vendor as authorized by Section 44.031(a)(1).

(b) Except as provided by this subsection, Subchapter B, Chapter 271, Local Government Code, does not apply to a competitive bidding process under this subchapter. Sections 271.026, 271.027(a), and 271.0275, Local Government Code, apply to a competitive bidding process under this subchapter.

(c) A school district shall award a competitively bid contract at the bid amount to the bidder offering the best value for the district. In determining the best value for the district, the district is not restricted to considering price alone but may consider any other factors stated in the selection criteria. The selection criteria may include the factors listed in Section 44.031(b).

Sec. 44.0352. COMPETITIVE SEALED PROPOSALS. (a) In selecting a vendor through competitive sealed proposals as authorized by Section 44.031(a)(2), a school district shall follow the procedures prescribed by this section.

(b) The district shall prepare a request for competitive sealed proposals that includes information that vendors may require to respond to the request. The district shall state in the request for proposals the selection criteria that will be used in selecting the successful offeror.

(c) The district shall receive, publicly open, and read aloud the names of the offerors and, if any are required to be stated, all prices stated in each proposal. Not later than the 45th day after the date on which the proposals are opened, the district shall evaluate and rank each proposal submitted in relation to the published selection criteria.

(d) The district shall select the offeror that offers the best value for the district based on the published selection criteria and on its ranking evaluation. The district shall first attempt to negotiate a contract with the selected offeror. The district may discuss with the selected offeror options for a scope or time modification and any price change associated with the modification. If the district is unable to negotiate a satisfactory contract with the selected offeror, the district shall, formally and in writing, end negotiations with that offeror and proceed to the next offeror in the order of the selection ranking until a contract is reached or all proposals are rejected.

(e) In determining the best value for the district, the district is not restricted to considering price alone but may consider any other factors stated in the selection criteria.

SECTION 2.04. Subchapter B, Chapter 44, Education Code, is amended by adding Section 44.0411 to read as follows:

Sec. 44.0411. CHANGE ORDERS. (a) If a change in plans or specifications is necessary after the performance of a contract is begun or if it is necessary to decrease or increase the quantity of work to be performed or of materials, equipment, or supplies to be furnished, the district may approve change orders making the changes.

(b) The total contract price may not be increased because of the changes unless additional money for increased costs is approved for that purpose from available money or is provided for by the authorization of the issuance of time warrants.

(c) The district may grant general authority to an administrative official to approve the change orders.

(d) A contract with an original contract price of \$1 million or more may not be increased under this section by more than 25 percent. If a change order for a contract with an original contract price of less than \$1 million increases the contract amount to \$1 million or more, the total of the subsequent change orders may not increase the revised contract amount by more than 25 percent of the original contract price.

SECTION 2.05. Subchapter A, Chapter 46, Education Code, is amended by adding Section 46.0111 to read as follows:

Sec. 46.0111. ACTIONS BROUGHT FOR DEFECTIVE DESIGN, CONSTRUCTION, RENOVATION, OR IMPROVEMENT OF INSTRUCTIONAL FACILITY. (a) In this section:

(1) "Net proceeds" means the difference between the amount recovered by or on behalf of a school district in an action, by settlement or otherwise, and the legal fees and litigation costs incurred by the district in prosecuting the action.

(2) "State's share" means an amount equal to the district's net proceeds from the recovery multiplied by a percentage determined by dividing the amount of state assistance under this subchapter used to pay the principal of and interest on bonds issued in connection with the instructional facility that is the subject of the action by the total amount of principal and interest paid on the bonds as of the date of the judgment or settlement.

(b) A school district that brings an action for recovery of damages for the defective design, construction, renovation, or improvement of an instructional facility financed by bonds for which the district receives state assistance under this subchapter shall provide the commissioner with written notice of the action.

(c) The commissioner may join in the action on behalf of the state to protect the state's share in the action.

(d) A school district shall use the net proceeds from an action brought by the district for the defective design, construction, renovation, or improvement of an instructional facility financed by bonds for which the district receives state assistance under this subchapter to repair the defective design, construction, renovation, or improvement of the instructional facility on which the action is brought or to replace the facility. Section 46.008 applies to the repair.

(e) The state's share is state property. The school district shall send to the comptroller any portion of the state's share not used by the school district to repair the defective design, construction, renovation, or improvement of the instructional facility on which the action is brought or to replace the facility. Section 42.258 applies to the state's share under this subsection.

SECTION 2.06. Section 2155.502(c), Government Code, is amended to read as follows:

(c) The 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;

(2) are telecommunications services, facilities, or equipment; ~~or~~

(3) are commodity items as defined by Section 2157.068(a); or

(4) are engineering services as described by Section 1001.003, Occupations Code, or architectural services as described by Section 1051.001, Occupations Code.

SECTION 2.07. Section 2166.2525, Government Code, is amended to read as follows:

Sec. 2166.2525. DETERMINATION OF CONTRACTING METHOD. The ~~[commission shall adopt rules that determine the circumstances for use of each]~~ method of contracting allowed under this subchapter for design and construction services is any method provided by Chapter 2267. [In developing

~~the rules, the commission shall solicit advice and comment from design and construction professionals regarding the criteria the commission will use in determining which contracting method is best suited for a project.]~~

SECTION 2.08. Subtitle F, Title 10, Government Code, is amended by adding Chapter 2267 to read as follows:

CHAPTER 2267. CONTRACTING AND DELIVERY PROCEDURES FOR
CONSTRUCTION PROJECTS
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2267.001. DEFINITIONS. In this chapter:

(1) "Architect" means an individual registered as an architect under Chapter 1051, Occupations Code.

(2) "Engineer" means an individual licensed as an engineer under Chapter 1001, Occupations Code.

(3) "Facility" means, unless otherwise specifically provided, an improvement to real property.

(4) "General conditions" in the context of a contract for the construction, rehabilitation, alteration, or repair of a facility means on-site management, administrative personnel, insurance, bonds, equipment, utilities, and incidental work, including minor field labor and materials.

(5) "General contractor" means a sole proprietorship, partnership, corporation, or other legal entity that assumes the risk for constructing, rehabilitating, altering, or repairing all or part of a facility at the contracted price.

(6) "Public work contract" means a contract for constructing, altering, or repairing a public building or carrying out or completing any public work.

Sec. 2267.002. APPLICABILITY OF CHAPTER TO GOVERNMENTAL ENTITIES ENGAGED IN PUBLIC WORKS. This chapter applies to a public work contract made by a governmental entity authorized by state law to make a public work contract, including:

(1) a state agency as defined by Section 2151.002, including the Texas Facilities Commission;

(2) a local government, including:

(A) a county;

(B) a municipality;

(C) a school district;

(D) any other special district or authority, including a hospital district, a defense base development authority established under Chapter 379B, Local Government Code, and a conservation and reclamation district, including a river authority or any other type of water district; and

(E) any other political subdivision of this state;

(3) a public junior college as defined by Section 61.003, Education Code; and

(4) a board of trustees governed by Chapter 54, Transportation Code.

Sec. 2267.003. CONFLICT OF LAWS; REQUIREMENT TO FOLLOW PROCEDURES OF THIS CHAPTER. (a) Except as provided by this section, this chapter prevails over any other law relating to a public work contract.

(b) This chapter does not prevail over a conflicting provision in a law relating to contracting with a historically underutilized business.

(c) This chapter does not prevail over a conflicting provision in an ordinance or resolution passed by the governing body of a municipally owned electric utility in a procedure described by Section 252.022(c), Local Government Code, that:

(1) requires the use of competitive bidding or competitive sealed proposals; or

(2) prescribes a design-build procurement procedure that conflicts with this chapter.

(d) This chapter does not prevail over any law, rule, or regulation relating to competitive bidding or competitive sealed proposals for construction services, or to procurement of construction services pursuant to Section 49.273, Water Code, that applies to a river authority or to a conservation and reclamation district created under Section 59, Article XVI, Texas Constitution, unless the governing body of the river authority or conservation and reclamation district elects to permit this chapter to supersede the law, rule, or regulation.

(e) This chapter does not prevail over a conflicting provision in a regulation that prescribes procurement procedures for construction services that is adopted by the governing board of a river authority or of a conservation and reclamation district created pursuant to Section 59, Article XVI, Texas Constitution, that owns electric generation capacity in excess of 2,500 megawatts, except with respect to Subchapter H.

Sec. 2267.004. EXEMPTION: TEXAS DEPARTMENT OF TRANSPORTATION; HIGHWAY PROJECTS. This chapter does not apply to:

(1) a contract entered into by the Texas Department of Transportation;
or

(2) a project that receives money from a state or federal highway fund.

Sec. 2267.005. APPLICABILITY: INSTITUTIONS OF HIGHER EDUCATION. (a) In this section, "institution of higher education," "public junior college," and "university system" have the meanings assigned by Section 61.003, Education Code.

(b) This chapter applies to a public junior college but does not apply to:

(1) any other institution of higher education; or

(2) a university system.

Sec. 2267.006. EXEMPTION: REGIONAL TOLLWAY AUTHORITIES. This chapter does not apply to a regional tollway authority under Chapter 366, Transportation Code.

Sec. 2267.007. EXEMPTION: CERTAIN LOCAL GOVERNMENT CORPORATION IMPROVEMENT PROJECTS. This chapter does not apply to an improvement project undertaken by or through a local government corporation exempt from competitive bidding requirements or restrictions under Section 431.110, Transportation Code.

Sec. 2267.008. EXEMPTION: REGIONAL MOBILITY AUTHORITIES. This chapter does not apply to a regional mobility authority under Chapter 370, Transportation Code.

Sec. 2267.009. EXEMPTION: COUNTY TOLL AUTHORITIES. This chapter does not apply to a project of a county under Chapter 284, Transportation Code, unless the county adopts an order electing to be governed by this chapter for a project to be developed by the county under Chapter 284.

Sec. 2267.010. EXEMPTION: COORDINATED COUNTY TRANSPORTATION AUTHORITY. This chapter does not apply to a coordinated county transportation authority under Chapter 460, Transportation Code.

[Sections 2267.011-2267.050 reserved for expansion]

SUBCHAPTER B. GENERAL POWERS AND DUTIES

Sec. 2267.051. RULES. A governmental entity may adopt rules as necessary to implement this chapter.

Sec. 2267.052. NOTICE REQUIREMENTS. (a) A governmental entity shall advertise or publish notice of requests for bids, proposals, or qualifications in a manner prescribed by law.

(b) For a contract entered into by a governmental entity under a method provided by this chapter, the governmental entity shall publish notice of the time and place the bid or proposal or request for qualifications will be received and opened in a manner prescribed by law.

(c) For a contract entered into by a municipality, river authority, conservation and reclamation district created pursuant to Section 59, Article XVI, Texas Constitution, and located in a county with a population of more than 250,000, or defense base development authority under any of the methods provided by this chapter, the municipality, river authority, conservation and reclamation district created pursuant to Section 59, Article XVI, Texas Constitution, and located in a county with a population of more than 250,000, or defense base development authority shall publish notice of the time and place the bids or proposals, or the responses to a request for qualifications, will be received and opened. The notice must be published in a newspaper of general circulation in the county in which the defense base development authority's or municipality's central administrative office is located or the county in which the greatest amount of the river authority's or such conservation and reclamation district's territory is located once each week for at least two weeks before the deadline for receiving bids, proposals, or responses. If there is not a newspaper of general circulation in that county, the notice shall be published in a newspaper of general circulation in the county nearest the county seat of the county in which the defense base development authority's or municipality's central administrative office is located or the county in which the greatest amount of the river authority's or such conservation and reclamation district's territory is located. In a two-step procurement process, the time and place the second step bids, proposals, or responses will be received are not required to be published separately.

(d) For a contract entered into by a county under any of the methods provided by this chapter, the county shall publish notice of the time and place the bids or proposals, or the responses to a request for qualifications, will be received and opened. The notice must be published in a newspaper of general circulation

in the county once each week for at least two weeks before the deadline for receiving bids, proposals, or responses. If there is not a newspaper of general circulation in the county, the notice shall be:

- (1) posted at the courthouse door of the county; and
- (2) published in a newspaper of general circulation in the nearest county.

Sec. 2267.053. DELEGATION OF AUTHORITY. (a) The governing body of a governmental entity may delegate its authority under this chapter regarding an action authorized or required by this chapter to a designated representative, committee, or other person.

(b) The governmental entity shall provide notice of the delegation, the limits of the delegation, and the name or title of each person designated under Subsection (a) by rule or in the request for bids, proposals, or qualifications or in an addendum to the request.

Sec. 2267.054. RIGHT TO WORK. (a) This section applies to a governmental entity when the governmental entity is engaged in:

- (1) procuring goods or services under this chapter;
- (2) awarding a contract under this chapter; or
- (3) overseeing procurement or construction for a public work or public improvement under this chapter.

(b) In engaging in an activity to which this section applies, a governmental entity:

(1) may not consider whether a person is a member of or has another relationship with any organization; and

(2) shall ensure that its bid specifications and any subsequent contract or other agreement do not deny or diminish the right of a person to work because of the person's membership or other relationship status with respect to an organization.

Sec. 2267.055. CRITERIA TO CONSIDER. (a) In determining the award of a contract under this chapter, the governmental entity may consider:

- (1) the price;
- (2) the offeror's experience and reputation;
- (3) the quality of the offeror's goods or services;
- (4) the impact on the ability of the governmental entity to comply with rules relating to historically underutilized businesses;

(5) the offeror's safety record;
(6) the offeror's proposed personnel;
(7) whether the offeror's financial capability is appropriate to the size and scope of the project; and

(8) any other relevant factor specifically listed in the request for bids, proposals, or qualifications.

(b) In determining the award of a contract under this chapter, the governmental entity shall:

(1) consider and apply any existing laws, including any criteria, related to historically underutilized businesses; and

(2) consider and apply any existing laws, rules, or applicable municipal charters, including laws applicable to local governments, related to the use of women, minority, small, or disadvantaged businesses.

Sec. 2267.056. USING METHOD OTHER THAN COMPETITIVE BIDDING FOR CONSTRUCTION SERVICES; EVALUATION OF PROPOSALS; CRITERIA. (a) The governing body of a governmental entity that considers a construction contract using a method authorized by this chapter other than competitive bidding must, before advertising, determine which method provides the best value for the governmental entity.

(b) The governmental entity shall base its selection among offerors on applicable criteria listed for the particular method used. The governmental entity shall publish in the request for proposals or qualifications the criteria that will be used to evaluate the offerors, and the applicable weighted value for each criterion.

(c) The governmental entity shall document the basis of its selection and shall make the evaluations public not later than the seventh day after the date the contract is awarded.

Sec. 2267.057. ARCHITECT OR ENGINEER SERVICES. (a) An architect or engineer required to be selected or designated under this chapter has full responsibility for complying with Chapter 1051 or 1001, Occupations Code, as applicable.

(b) If the selected or designated architect or engineer is not a full-time employee of the governmental entity, the governmental entity shall select the architect or engineer on the basis of demonstrated competence and qualifications as provided by Section 2254.004.

Sec. 2267.058. USE OF OTHER PROFESSIONAL SERVICES.

(a) Independently of the contractor, construction manager-at-risk, or design-build firm, the governmental entity shall provide or contract for the construction materials engineering, testing, and inspection services and the verification testing services necessary for acceptance of the facility by the governmental entity.

(b) The governmental entity shall select the services for which it contracts under this section in accordance with Section 2254.004.

Sec. 2267.059. SEALED BIDS, PROPOSALS, OR QUALIFICATIONS REQUIRED. A person who submits a bid, proposal, or qualification to a governmental entity shall seal it before delivery.

[Sections 2267.060-2267.100 reserved for expansion]

SUBCHAPTER C. COMPETITIVE BIDDING METHOD

Sec. 2267.101. CONTRACTS FOR FACILITIES: COMPETITIVE BIDDING. (a) In this chapter, "competitive bidding" is a procurement method by which a governmental entity contracts with a contractor for the construction, alteration, rehabilitation, or repair of a facility by awarding the contract to the lowest responsible bidder.

(b) Except as otherwise provided by this chapter or other law, a governmental entity may contract for the construction, alteration, rehabilitation, or repair of a facility only after the entity advertises for bids for the contract in a manner prescribed by law, receives competitive bids, and awards the contract to the lowest responsible bidder.

Sec. 2267.102. USE OF ARCHITECT OR ENGINEER. The governmental entity shall select or designate an architect or engineer in accordance with Chapter 1051 or 1001, Occupations Code, as applicable, to prepare the construction documents required for a project to be awarded by competitive bidding.

Sec. 2267.103. PREPARATION OF REQUEST. The governmental entity shall prepare a request for competitive bids that includes construction documents, estimated budget, project scope, estimated project completion date, and other information that a contractor may require to submit a bid.

Sec. 2267.104. EVALUATION OF OFFERORS. The governmental entity shall receive, publicly open, and read aloud the names of the offerors and their bids.

Sec. 2267.105. SELECTION OF OFFEROR. Not later than the seventh day after the date the contract is awarded, the governmental entity shall document the basis of its selection and shall make the evaluations public.

Sec. 2267.106. APPLICABILITY OF OTHER COMPETITIVE BIDDING LAW TO CERTAIN LOCAL GOVERNMENTAL ENTITIES. Except as otherwise specifically provided by this section, Subchapter B, Chapter 271, Local Government Code, does not apply to a competitive bidding process conducted under this chapter. Sections 271.026, 271.027(a), and 271.0275, Local Government Code, apply to a competitive bidding process conducted under this chapter by a governmental entity as defined by Section 271.021, Local Government Code.

[Sections 2267.107-2267.150 reserved for expansion]

SUBCHAPTER D. COMPETITIVE SEALED PROPOSAL METHOD

Sec. 2267.151. CONTRACTS FOR FACILITIES: COMPETITIVE SEALED PROPOSALS. (a) In this chapter, "competitive sealed proposals" is a procurement method by which a governmental entity requests proposals, ranks the offerors, negotiates as prescribed, and then contracts with a general contractor for the construction, rehabilitation, alteration, or repair of a facility.

(b) In selecting a contractor through competitive sealed proposals, a governmental entity shall follow the procedures provided by this subchapter.

Sec. 2267.152. USE OF ARCHITECT OR ENGINEER. The governmental entity shall select or designate an architect or engineer to prepare construction documents for the project.

Sec. 2267.153. PREPARATION OF REQUEST. The governmental entity shall prepare a request for competitive sealed proposals that includes construction documents, selection criteria and the weighted value for each criterion, estimated budget, project scope, estimated project completion date, and other information that a contractor may require to respond to the request.

Sec. 2267.154. EVALUATION OF OFFERORS. (a) The governmental entity shall receive, publicly open, and read aloud the names of the offerors and any monetary proposals made by the offerors.

(b) Not later than the 45th day after the date on which the proposals are opened, the governmental entity shall evaluate and rank each proposal submitted in relation to the published selection criteria.

Sec. 2267.155. SELECTION OF OFFEROR. (a) The governmental entity shall select the offeror that submits the proposal that offers the best value for the governmental entity based on:

(1) the selection criteria in the request for proposal and the weighted value for those criteria in the request for proposal; and

(2) its ranking evaluation.

(b) The governmental entity shall first attempt to negotiate a contract with the selected offeror. The governmental entity and its architect or engineer may discuss with the selected offeror options for a scope or time modification and any price change associated with the modification.

(c) If the governmental entity is unable to negotiate a satisfactory contract with the selected offeror, the governmental entity shall, formally and in writing, end negotiations with that offeror and proceed to the next offeror in the order of the selection ranking until a contract is reached or all proposals are rejected.

[Sections 2267.156-2267.200 reserved for expansion]

SUBCHAPTER E. CONSTRUCTION MANAGER-AGENT METHOD

Sec. 2267.201. CONTRACTS FOR FACILITIES: CONSTRUCTION MANAGER-AGENT. (a) In this chapter, the "construction manager-agent method" is a delivery method by which a governmental entity contracts with a construction manager-agent to provide consultation or administrative services during the design and construction phase and to manage multiple contracts with various construction prime contractors.

(b) A construction manager-agent is a sole proprietorship, partnership, corporation, or other legal entity that serves as the agent for the governmental entity by providing construction administration and management services described by Subsection (a) for the construction, rehabilitation, alteration, or repair of a facility.

(c) A governmental entity may retain a construction manager-agent for assistance in the construction, rehabilitation, alteration, or repair of a facility only as provided by this subchapter.

Sec. 2267.202. CONTRACT PROVISIONS OF CONSTRUCTION MANAGER-AGENT. The contract between the governmental entity and the construction manager-agent may require the construction manager-agent to provide:

(1) administrative personnel;

(2) equipment necessary to perform duties under this subchapter;

(3) on-site management; and

(4) other services specified in the contract.

Sec. 2267.203. LIMITS ON CONSTRUCTION MANAGER-AGENT. A construction manager-agent may not:

(1) self-perform any aspect of the construction, rehabilitation, alteration, or repair of the facility;

(2) be a party to a construction subcontract for the construction, rehabilitation, alteration, or repair of the facility; or

(3) provide or be required to provide performance and payment bonds for the construction, rehabilitation, alteration, or repair of the facility.

Sec. 2267.204. FIDUCIARY CAPACITY OF CONSTRUCTION MANAGER-AGENT. A construction manager-agent represents the governmental entity in a fiduciary capacity.

Sec. 2267.205. USE OF ARCHITECT OR ENGINEER. (a) On or before the selection of a construction manager-agent, the governmental entity shall select or designate an architect or engineer in accordance with Chapter 1051 or 1001, Occupations Code, as applicable, to prepare the construction documents for the project.

(b) The governmental entity's architect or engineer may not serve, alone or in combination with another person, as the construction manager-agent unless the architect or engineer is hired to serve as the construction manager-agent under a separate or concurrent selection process conducted in accordance with this subchapter. This subsection does not prohibit the governmental entity's architect or engineer from providing customary construction phase services under the architect's or engineer's original professional service agreement in accordance with applicable licensing laws.

(c) To the extent that the construction manager-agent's services are defined as part of the practice of architecture or engineering under Chapter 1051 or 1001, Occupations Code, those services must be conducted by a person licensed under the applicable chapter.

Sec. 2267.206. SELECTION OF CONTRACTORS. A governmental entity using the construction manager-agent method shall procure, in accordance with applicable law and in any manner authorized by this chapter, a general contractor or trade contractors who will serve as the prime contractor for their specific portion of the work and provide performance and payment bonds to the governmental entity in accordance with applicable laws.

Sec. 2267.207. SELECTION OF CONSTRUCTION MANAGER-AGENT. A governmental entity shall select a construction manager-agent on the basis of demonstrated competence and qualifications in the same manner that an architect or engineer is selected under Section 2254.004.

Sec. 2267.208. INSURANCE. A construction manager-agent selected under this subchapter shall maintain professional liability or errors and omissions insurance in the amount of at least \$1 million for each occurrence.

[Sections 2267.209-2267.250 reserved for expansion]

SUBCHAPTER F. CONSTRUCTION MANAGER-AT-RISK METHOD

Sec. 2267.251. CONTRACTS FOR FACILITIES: CONSTRUCTION MANAGER-AT-RISK. (a) In this chapter, the "construction manager-at-risk method" is a delivery method by which a governmental entity contracts with an architect or engineer for design and construction phase services and contracts separately with a construction manager-at-risk to serve as the general contractor and to provide consultation during the design and construction, rehabilitation, alteration, or repair of a facility.

(b) A construction manager-at-risk is a sole proprietorship, partnership, corporation, or other legal entity that assumes the risk for construction, rehabilitation, alteration, or repair of a facility at the contracted price as a general

contractor and provides consultation to the governmental entity regarding construction during and after the design of the facility. The contracted price may be a guaranteed maximum price.

(c) A governmental entity may use the construction manager-at-risk method in selecting a general contractor for the construction, rehabilitation, alteration, or repair of a facility only as provided by this subchapter.

Sec. 2267.252. USE OF ARCHITECT OR ENGINEER. (a) On or before the selection of a construction manager-at-risk, the governmental entity shall select or designate an architect or engineer to prepare the construction documents for the project.

(b) The governmental entity's architect or engineer for a project may not serve, alone or in combination with another person, as the construction manager-at-risk unless the architect or engineer is hired to serve as the construction manager-at-risk under a separate or concurrent selection process conducted in accordance with this subchapter. This subsection does not prohibit the governmental entity's architect or engineer from providing customary construction phase services under the architect's or engineer's original professional service agreement in accordance with applicable licensing laws.

Sec. 2267.253. SELECTION PROCESS. (a) The governmental entity shall select the construction manager-at-risk in a one-step or two-step process.

(b) The governmental entity shall prepare a single request for proposals, in the case of a one-step process, and an initial request for qualifications, in the case of a two-step process, that includes:

(1) a statement as to whether the selection process is a one-step or two-step process;

(2) general information on the project site, project scope, schedule, selection criteria and the weighted value for each criterion, and estimated budget and the time and place for receipt of the proposals or qualifications; and

(3) other information that may assist the governmental entity in its selection of a construction manager-at-risk.

(c) The governmental entity shall state the selection criteria in the request for proposals or qualifications.

(d) If a one-step process is used, the governmental entity may request, as part of the offeror's proposal, proposed fees and prices for fulfilling the general conditions.

(e) If a two-step process is used, the governmental entity may not request fees or prices in step one. In step two, the governmental entity may request that five or fewer offerors, selected solely on the basis of qualifications, provide additional information, including the construction manager-at-risk's proposed fee and prices for fulfilling the general conditions.

(f) At each step, the governmental entity shall receive, publicly open, and read aloud the names of the offerors. At the appropriate step, the governmental entity shall also read aloud the fees and prices, if any, stated in each proposal as the proposal is opened.

(g) Not later than the 45th day after the date on which the final proposals are opened, the governmental entity shall evaluate and rank each proposal submitted in relation to the criteria set forth in the request for proposals.

Sec. 2267.254. SELECTION OF OFFEROR. (a) The governmental entity shall select the offeror that submits the proposal that offers the best value for the governmental entity based on the published selection criteria and on its ranking evaluation.

(b) The governmental entity shall first attempt to negotiate a contract with the selected offeror.

(c) If the governmental entity is unable to negotiate a satisfactory contract with the selected offeror, the governmental entity shall, formally and in writing, end negotiations with that offeror and proceed to negotiate with the next offeror in the order of the selection ranking until a contract is reached or negotiations with all ranked offerors end.

(d) Not later than the seventh day after the date the contract is awarded, the governmental entity shall make the rankings determined under Section 2267.253(g) public.

Sec. 2267.255. PERFORMANCE OF WORK. (a) A construction manager-at-risk shall publicly advertise for bids or proposals and receive bids or proposals from trade contractors or subcontractors for the performance of all major elements of the work other than the minor work that may be included in the general conditions.

(b) A construction manager-at-risk may seek to perform portions of the work itself if:

(1) the construction manager-at-risk submits its bid or proposal for those portions of the work in the same manner as all other trade contractors or subcontractors; and

(2) the governmental entity determines that the construction manager-at-risk's bid or proposal provides the best value for the governmental entity.

Sec. 2267.256. REVIEW OF BIDS OR PROPOSALS. (a) The construction manager-at-risk shall review all trade contractor or subcontractor bids or proposals in a manner that does not disclose the contents of the bid or proposal during the selection process to a person not employed by the construction manager-at-risk, architect, engineer, or governmental entity. All bids or proposals shall be made available to the governmental entity on request and to the public after the later of the award of the contract or the seventh day after the date of final selection of bids or proposals.

(b) If the construction manager-at-risk reviews, evaluates, and recommends to the governmental entity a bid or proposal from a trade contractor or subcontractor but the governmental entity requires another bid or proposal to be accepted, the governmental entity shall compensate the construction manager-at-risk by a change in price, time, or guaranteed maximum cost for any additional cost and risk that the construction manager-at-risk incurs because of the governmental entity's requirement that another bid or proposal be accepted.

Sec. 2267.257. DEFAULT; PERFORMANCE OF WORK. If a selected trade contractor or subcontractor defaults in the performance of its work or fails to execute a subcontract after being selected in accordance with this subchapter, the construction manager-at-risk may itself fulfill, without advertising, the contract requirements or select a replacement trade contractor or subcontractor to fulfill the contract requirements.

Sec. 2267.258. PERFORMANCE OR PAYMENT BOND. (a) If a fixed contract amount or guaranteed maximum price has not been determined at the time the contract is awarded, the penal sums of the performance and payment bonds delivered to the governmental entity must each be in an amount equal to the construction budget, as specified in the request for proposals or qualifications.

(b) The construction manager-at-risk shall deliver the bonds not later than the 10th day after the date the construction manager-at-risk executes the contract unless the construction manager-at-risk furnishes a bid bond or other financial security acceptable to the governmental entity to ensure that the construction manager will furnish the required performance and payment bonds when a guaranteed maximum price is established.

[Sections 2267.259-2267.300 reserved for expansion]

SUBCHAPTER G. BUILDING USING DESIGN-BUILD METHOD

Sec. 2267.301. CONTRACTS FOR FACILITIES: DESIGN-BUILD. In this chapter, "design-build" is a project delivery method by which a governmental entity contracts with a single entity to provide both design and construction services for the construction, rehabilitation, alteration, or repair of a facility.

Sec. 2267.302. APPLICABILITY OF SUBCHAPTER TO BUILDINGS; EXCEPTIONS. This subchapter applies only to a facility that is a building or an associated structure, including an electric utility structure. This subchapter does not apply to:

(1) a highway, road, street, bridge, underground utility, water supply project, water plant, wastewater plant, water and wastewater distribution or conveyance facility, wharf, dock, airport runway or taxiway, drainage project, or related type of project associated with civil engineering construction; or

(2) a building or structure that is incidental to a project that is primarily a civil engineering construction project.

Sec. 2267.303. CONTRACTS FOR BUILDINGS: DESIGN-BUILD. A governmental entity may use the design-build method for the construction, rehabilitation, alteration, or repair of a building or associated structure only as provided by this subchapter. In using that method, the governmental entity shall enter into a single contract with a design-build firm for the design and construction of the building or associated structure.

Sec. 2267.304. DESIGN-BUILD FIRMS. A design-build firm under this subchapter must be a sole proprietorship, partnership, corporation, or other legal entity or team that includes an architect or engineer and a construction contractor.

Sec. 2267.305. USE OF ARCHITECT OR ENGINEER AS INDEPENDENT REPRESENTATIVE. The governmental entity shall select or designate an architect or engineer independent of the design-build firm to act as the governmental entity's representative for the duration of the project.

Sec. 2267.306. PREPARATION OF REQUEST. (a) The governmental entity shall prepare a request for qualifications that includes general information on the project site, project scope, budget, special systems, selection criteria and the weighted value for each criterion, and other information that may assist potential design-build firms in submitting proposals for the project.

(b) The governmental entity shall also prepare the design criteria package that includes more detailed information on the project. If the preparation of the design criteria package requires architectural or engineering services that constitute the practice of architecture within the meaning of Chapter 1051, Occupations Code, or the practice of engineering within the meaning of Chapter 1001, Occupations Code, those services shall be provided in accordance with the applicable law.

(c) The design criteria package must include a set of documents that provides sufficient information, including criteria for selection, to permit a design-build firm to prepare a response to the governmental entity's request for qualifications and to provide any additional information requested. The design criteria package must specify criteria the governmental entity considers necessary to describe the project and may include, as appropriate, the legal description of the site, survey information concerning the site, interior space requirements, special material requirements, material quality standards, conceptual criteria for the project, special equipment requirements, cost or budget estimates, time schedules, quality assurance and quality control requirements, site development requirements, applicable codes and ordinances, provisions for utilities, parking requirements, and any other requirement.

(d) The governmental entity may not require offerors to submit architectural or engineering designs as part of a proposal or a response to a request for qualifications.

Sec. 2267.307. EVALUATION OF DESIGN-BUILD FIRMS. (a) For each design-build firm that responded to the request for qualifications, the governmental entity shall evaluate the firm's experience, technical competence, and capability to perform, the past performance of the firm and members of the firm, and other appropriate factors submitted by the firm in response to the request for qualifications, except that cost-related or price-related evaluation factors are not permitted.

(b) Each firm must certify to the governmental entity that each architect or engineer that is a member of the firm was selected based on demonstrated competence and qualifications, in the manner provided by Section 2254.004.

(c) The governmental entity shall qualify a maximum of five responders to submit proposals that contain additional information and, if the governmental entity chooses, to interview for final selection.

(d) The governmental entity shall evaluate the additional information submitted by the offerors on the basis of the selection criteria stated in the request for qualifications and the results of any interview.

(e) The governmental entity may request additional information regarding demonstrated competence and qualifications, considerations of the safety and long-term durability of the project, the feasibility of implementing the project as

proposed, the ability of the offeror to meet schedules, or costing methodology. As used in this subsection, "costing methodology" means an offeror's policies on subcontractor markup, definition of general conditions, range of cost for general conditions, policies on retainage, policies on contingencies, discount for prompt payment, and expected staffing for administrative duties. The term does not include a guaranteed maximum price or bid for overall design or construction.

(f) The governmental entity shall rank each proposal submitted on the basis of the criteria set forth in the request for qualifications.

Sec. 2267.308. SELECTION OF DESIGN-BUILD FIRM. (a) The governmental entity shall select the design-build firm that submits the proposal offering the best value for the governmental entity on the basis of the published selection criteria and on its ranking evaluations.

(b) The governmental entity shall first attempt to negotiate a contract with the selected firm.

(c) If the governmental entity is unable to negotiate a satisfactory contract with the selected firm, the governmental entity shall, formally and in writing, end all negotiations with that firm and proceed to negotiate with the next firm in the order of the selection ranking until a contract is reached or negotiations with all ranked firms end.

(d) Not later than the seventh day after the date the contract is awarded, the governmental entity shall make the rankings determined under Section 2267.307(f) public.

Sec. 2267.309. SUBMISSION OF DESIGN AFTER SELECTION. After selection of the design-build firm, that firm's architects or engineers shall submit all design elements for review and determination of scope compliance to the governmental entity or the governmental entity's architect or engineer before or concurrently with construction.

Sec. 2267.310. FINAL CONSTRUCTION DOCUMENTS. The design-build firm shall supply a set of construction documents for the completed project to the governmental entity at the conclusion of construction. The documents must note any changes made during construction.

Sec. 2267.311. PERFORMANCE OR PAYMENT BOND. (a) A payment or performance bond is not required and may not provide coverage for the design portion of the design-build contract with the design-build firm under this subchapter.

(b) If a fixed contract amount or guaranteed maximum price has not been determined at the time the design-build contract is awarded, the penal sums of the performance and payment bonds delivered to the governmental entity must each be in an amount equal to the construction budget, as specified in the design criteria package.

(c) The design-build firm shall deliver the bonds not later than the 10th day after the date the design-build firm executes the contract unless the design-build firm furnishes a bid bond or other financial security acceptable to the governmental entity to ensure that the design-build firm will furnish the required performance and payment bonds before construction begins.

[Sections 2267.312-2267.350 reserved for expansion]

SUBCHAPTER H. DESIGN-BUILD PROCEDURES FOR CERTAIN CIVIL
WORKS PROJECTS

Sec. 2267.351. DEFINITIONS. In this subchapter:

(1) "Civil works project" means:

(A) roads, streets, bridges, utilities, water supply projects, water plants, wastewater plants, water distribution and wastewater conveyance facilities, desalination projects, wharves, docks, airport runways and taxiways, storm drainage and flood control projects, or transit projects;

(B) types of projects or facilities related to those described by Paragraph (A) and associated with civil engineering construction; and

(C) buildings or structures that are incidental to projects or facilities that are described by Paragraphs (A) and (B) and that are primarily civil engineering construction projects.

(2) "Design-build firm" means a partnership, corporation, or other legal entity or team that includes an engineer and a construction contractor qualified to engage in civil works construction in Texas.

(3) "Design criteria package" means a set of documents that:

(A) provides sufficient information to convey the intent, goals, criteria, and objectives of the civil works project; and

(B) permits a design-build firm to:

(i) assess the scope of work and the risk involved; and

(ii) submit a proposal on the project.

Sec. 2267.352. APPLICABILITY. This subchapter applies to a governmental entity that:

(1) has a population of more than 100,000 within the entity's geographic boundary or service area; or

(2) is a board of trustees governed by Chapter 54, Transportation Code.

Sec. 2267.353. CONTRACTS FOR CIVIL WORKS PROJECTS: DESIGN-BUILD. (a) A governmental entity may use the design-build method for the construction, rehabilitation, alteration, or repair of a civil works project. In using this method and in entering into a contract for the services of a design-build firm, the contracting governmental entity and the design-build firm shall follow the procedures provided by this subchapter.

(b) A contract for a project under this subchapter may cover only a single integrated project. A governmental entity may not enter into a contract for aggregated projects at multiple locations. For purposes of this subsection:

(1) if a metropolitan transit authority created under Chapter 451, Transportation Code, enters into a contract for a project involving a bus rapid transit system created under Chapter 451, Transportation Code, the bus rapid transit system is a single integrated project; and

(2) a water treatment plant, including a desalination plant, that includes treatment facilities, well fields, and pipelines is a single integrated project.

(c) A governmental entity shall use the following criteria as a minimum basis for determining the circumstances under which the design-build method is appropriate for a project:

(1) the extent to which the entity can adequately define the project requirements;

(2) the time constraints for the delivery of the project;

(3) the ability to ensure that a competitive procurement can be held; and

(4) the capability of the entity to manage and oversee the project, including the availability of experienced personnel or outside consultants who are familiar with the design-build method of project delivery.

(d) A governmental entity shall make a formal finding on the criteria described by Subsection (c) before preparing a request for qualifications under Section 2267.357.

Sec. 2267.354. LIMITATION ON NUMBER OF PROJECTS. (a) Before September 1, 2013:

(1) a governmental entity with a population of 500,000 or more within the entity's geographic boundary or service area may, under this subchapter, enter into contracts for not more than three projects in any fiscal year; and

(2) a municipally owned water utility with a separate governing board appointed by the governing body of a municipality with a population of 500,000 or more may:

(A) independently enter into a contract for not more than one civil works project in any fiscal year; and

(B) enter into contracts for additional civil works projects in any fiscal year, but not more than the number of civil works projects prescribed by the limit in Subdivision (1) for the municipality, provided that:

(i) the additional contracts for the civil works projects entered into by the utility under this paragraph are allocated to the number of contracts the municipality that appoints the utility's governing board may enter under Subdivision (1); and

(ii) the governing body of the municipality must approve the contracts.

(b) Before September 1, 2015, a governmental entity that has a population of 100,000 or more but less than 500,000 or is a board of trustees governed by Chapter 54, Transportation Code, may enter into contracts under this subchapter for not more than two projects in any fiscal year.

(c) After the period described by Subsection (a) or (b):

(1) a governmental entity with a population of 500,000 or more within the entity's geographic boundary or service area may, under this subchapter, enter into contracts for not more than six projects in any fiscal year;

(2) a municipally owned water utility with a separate governing board appointed by the governing body of a municipality with a population of 500,000 or more may:

(A) independently enter into contracts for not more than two civil works projects in any fiscal year; and

(B) enter into contracts for additional civil works projects in any fiscal year, but not more than the number of civil works projects prescribed by the limit in Subdivision (1) for the municipality, provided that:

(i) the additional contracts for the civil works projects entered into by the utility under this paragraph are allocated to the number of contracts the municipality that appoints the utility's governing board may enter under Subdivision (1); and

(ii) the governing body of the municipality must approve the contracts; and

(3) a governmental entity that has a population of 100,000 or more but less than 500,000 or is a board of trustees governed by Chapter 54, Transportation Code, may enter into contracts under this subchapter for not more than four projects in any fiscal year.

(d) For purposes of determining the number of eligible projects under this section, a municipally owned water utility with a separate governing board appointed by the governing body of the municipality is considered part of the municipality.

Sec. 2267.355. USE OF ENGINEER. (a) The governmental entity shall select or designate an engineer who is independent of the design-build firm to act as its representative for the procurement process and for the duration of the work on the civil works project. The selected or designated engineer has full responsibility for complying with Chapter 1001, Occupations Code.

(b) If the engineer is not a full-time employee of the governmental entity, the governmental entity shall select the engineer on the basis of demonstrated competence and qualifications as provided by Section 2254.004.

Sec. 2267.356. USE OF OTHER PROFESSIONAL SERVICES. (a) The governmental entity shall provide or contract for, independently of the design-build firm, the following services as necessary for the acceptance of the civil works project by the entity:

(1) inspection services;

(2) construction materials engineering and testing; and

(3) verification testing services.

(b) The governmental entity shall select the services for which it contracts under this section in accordance with Section 2254.004.

Sec. 2267.357. REQUEST FOR QUALIFICATIONS. (a) The governmental entity shall prepare a request for qualifications that includes:

(1) information on the civil works project site;

(2) project scope;

(3) project budget;

(4) project schedule;

(5) criteria for selection under Section 2267.359 and the weighting of the criteria; and

(6) other information that may assist potential design-build firms in submitting proposals for the project.

(b) The governmental entity shall also prepare a design criteria package as described by Section 2267.358.

Sec. 2267.358. CONTENTS OF DESIGN CRITERIA PACKAGE. A design criteria package may include, as appropriate:

(1) budget or cost estimates;

- (2) information on the site;
- (3) performance criteria;
- (4) special material requirements;
- (5) initial design calculations;
- (6) known utilities;
- (7) capacity requirements;
- (8) quality assurance and quality control requirements;
- (9) the type, size, and location of structures; and
- (10) notice of any ordinances, rules, or goals adopted by the governmental entity relating to awarding contracts to historically underutilized businesses.

Sec. 2267.359. EVALUATION OF DESIGN-BUILD FIRMS. (a) The governmental entity shall receive proposals and shall evaluate each offeror's experience, technical competence, and capability to perform, the past performance of the offeror's team and members of the team, and other appropriate factors submitted by the team or firm in response to the request for qualifications, except that cost-related or price-related evaluation factors are not permitted at this stage.

(b) Each offeror must:

(1) select or designate each engineer that is a member of its team based on demonstrated competence and qualifications, in the manner provided by Section 2254.004; and

(2) certify to the governmental entity that each selection or designation was based on demonstrated competence and qualifications, in the manner provided by Section 2254.004.

(c) The governmental entity shall qualify offerors to submit additional information and, if the entity chooses, to interview for final selection.

Sec. 2267.360. SELECTION OF DESIGN-BUILD FIRM. The governmental entity shall select a design-build firm using a combination of technical and cost proposals as provided by Section 2267.361.

Sec. 2267.361. PROCEDURES FOR COMBINATION OF TECHNICAL AND COST PROPOSALS. (a) A governmental entity shall request proposals from design-build firms identified under Section 2267.359(c). A firm must submit a proposal not later than the 180th day after the date the governmental entity makes a public request for the proposals from the selected firms. The request for proposals must include:

(1) a design criteria package;

(2) if the project site is identified, a geotechnical baseline report or other information that provides the design-build firm minimum geotechnical design parameters to submit a proposal;

(3) detailed instructions for preparing the technical proposal and the items to be included, including a description of the form and level of completeness of drawings expected; and

(4) the relative weighting of the technical and price proposals and the formula by which the proposals will be evaluated and ranked.

(b) The technical proposal is a component of the proposal under this section.

(c) Each proposal must include a sealed technical proposal and a separate sealed cost proposal.

(d) The technical proposal must address:

(1) project approach;

(2) anticipated problems;

(3) proposed solutions to anticipated problems;

(4) ability to meet schedules;

(5) conceptual engineering design; and

(6) other information requested by the governmental entity.

(e) The governmental entity shall first open, evaluate, and score each responsive technical proposal submitted on the basis of the criteria described in the request for proposals and assign points on the basis of the weighting specified in the request for proposals. The governmental entity may reject as nonresponsive any firm that makes a significant change to the composition of its firm as initially submitted. The governmental entity shall subsequently open, evaluate, and score the cost proposals from firms that submitted a responsive technical proposal and assign points on the basis of the weighting specified in the request for proposals. The governmental entity shall select the design-build firm in accordance with the formula provided in the request for proposals.

Sec. 2267.362. NEGOTIATION. After selecting the highest-ranked design-build firm under Section 2267.361, the governmental entity shall first attempt to negotiate a contract with the selected firm. If the governmental entity is unable to negotiate a satisfactory contract with the selected firm, the entity shall, formally and in writing, end all negotiations with that firm and proceed to negotiate with the next firm in the order of the selection ranking until a contract is reached or negotiations with all ranked firms end.

Sec. 2267.363. ASSUMPTION OF RISKS. The governmental entity shall assume:

(1) all risks and costs associated with:

(A) scope changes and modifications, as requested by the governmental entity;

(B) unknown or differing site conditions unless otherwise provided by the governmental entity in the request for proposals and final contract;

(C) regulatory permitting, if the governmental entity is responsible for those risks and costs by law or contract; and

(D) natural disasters and other force majeure events unless otherwise provided by the governmental entity in the request for proposals and final contract; and

(2) all costs associated with property acquisition, excluding costs associated with acquiring a temporary easement or work area associated with staging or construction for the project.

Sec. 2267.364. STIPEND AMOUNT FOR UNSUCCESSFUL OFFERORS. (a) Unless a stipend is paid under Subsection (c), the design-build firm retains all rights to the work product submitted in a proposal. The

governmental entity may not release or disclose to any person, including the successful offeror, the work product contained in an unsuccessful proposal. The governmental entity shall return all copies of the proposal and other information submitted to an unsuccessful offeror. The governmental entity or its agents may not make use of any unique or nonordinary design element, technique, method, or process contained in the unsuccessful proposal that was not also contained in the successful proposal at the time of the original submittal, unless the entity acquires a license from the unsuccessful offeror.

(b) A violation of this section voids the contract for the project entered into by the governmental entity. The governmental entity is liable to any unsuccessful offeror, or any member of the design-build team or its assignee, for one-half of the cost savings associated with the unauthorized use of the work product of the unsuccessful offeror. Any interested party may bring an action for an injunction, declaratory relief, or damages for a violation of this section. A party who prevails in an action under this subsection is entitled to reasonable attorney's fees as approved by the court.

(c) The governmental entity may offer an unsuccessful design-build firm that submits a response to the entity's request for additional information under Section 2267.361 a stipend for preliminary engineering costs associated with the development of the proposal. The stipend must be one-half of one percent of the contract amount and must be specified in the initial request for proposals. If the offer is accepted and paid, the governmental entity may make use of any work product contained in the proposal, including the techniques, methods, processes, and information contained in the proposal. The use by the governmental entity of any design element contained in an unsuccessful proposal is at the sole risk and discretion of the entity and does not confer liability on the recipient of the stipend under this subsection.

(d) Notwithstanding other law, including Chapter 552, work product contained in an unsuccessful proposal submitted and rejected under this subchapter is confidential and may not be released unless a stipend offer has been accepted and paid as provided by Subsection (c).

Sec. 2267.365. COMPLETION OF DESIGN. (a) Following selection of a design-build firm under this subchapter, the firm's engineers shall submit all design elements for review and determination of scope compliance to the governmental entity before or concurrently with construction.

(b) An appropriately licensed design professional shall sign and seal construction documents before the documents are released for construction.

Sec. 2267.366. FINAL CONSTRUCTION DOCUMENTS. At the conclusion of construction, the design-build firm shall supply to the governmental entity a record set of construction documents for the project prepared as provided by Chapter 1001, Occupations Code.

Sec. 2267.367. PERFORMANCE OR PAYMENT BOND. (a) A performance or payment bond is not required for the portion of a design-build contract under this section that includes design services only.

(b) If a fixed contract amount or guaranteed maximum price has not been determined at the time a design-build contract is awarded, the penal sums of the performance and payment bonds delivered to the governmental entity must each be in an amount equal to the construction budget, if commercially available and practical, as specified in the design criteria package.

(c) If the governmental entity awards a design-build contract under Section 2267.362, the design-build firm shall deliver the bonds not later than the 10th day after the date the design-build firm executes the contract unless the design-build firm furnishes a bid bond or other financial security acceptable to the governmental entity to ensure that the design-build firm will furnish the required performance and payment bonds before the commencement of construction.

[Sections 2267.368-2267.400 reserved for expansion]

SUBCHAPTER I. JOB ORDER CONTRACTS METHOD

Sec. 2267.401. JOB ORDER CONTRACTING. In this chapter, "job order contracting" is a procurement method used for maintenance, repair, alteration, renovation, remediation, or minor construction of a facility when the work is of a recurring nature but the delivery times, type, and quantities of work required are indefinite.

Sec. 2267.402. APPLICABILITY OF SUBCHAPTER TO BUILDINGS; EXCEPTIONS. This subchapter applies only to a facility that is a building, the design and construction of which is governed by accepted building codes, or a structure or land, whether improved or unimproved, that is associated with a building. This subchapter does not apply to:

(1) a highway, road, street, bridge, utility, water supply project, water plant, wastewater plant, water and wastewater distribution or conveyance facility, wharf, dock, airport runway or taxiway, drainage project, or related type of project associated with civil engineering construction; or

(2) a building or structure that is incidental to a project that is primarily a civil engineering construction project.

Sec. 2267.403. REQUIREMENTS FOR JOB ORDER CONTRACTS FOR FACILITIES. (a) A governmental entity may award job order contracts for the maintenance, repair, alteration, renovation, remediation, or minor construction of a facility if:

(1) the work is of a recurring nature but the delivery times are indefinite; and

(2) indefinite quantities and orders are awarded substantially on the basis of predescribed and prepriced tasks.

(b) The governmental entity shall establish the maximum aggregate contract price when it advertises the proposal.

(c) The governing body of a governmental entity shall approve each job, task, or purchase order that exceeds \$500,000.

Sec. 2267.404. CONTRACTUAL UNIT PRICES. The governmental entity may establish contractual unit prices for a job order contract by:

(1) specifying one or more published construction unit price books and the applicable divisions or line items; or

(2) providing a list of work items and requiring the offerors to propose one or more coefficients or multipliers to be applied to the price book or prepriced work items as the price proposal.

Sec. 2267.405. COMPETITIVE SEALED PROPOSAL METHOD. (a) A governmental entity may use the competitive sealed proposal method under Subchapter D for job order contracts.

(b) The governmental entity shall advertise for, receive, and publicly open sealed proposals for job order contracts.

(c) The governmental entity may require offerors to submit information in addition to rates, including experience, past performance, and proposed personnel and methodology.

Sec. 2267.406. AWARDING OF JOB ORDER CONTRACTS. The governmental entity may award job order contracts to one or more job order contractors in connection with each solicitation of proposals.

Sec. 2267.407. USE OF JOB ORDER CONTRACT. A job order contract may be used to accomplish work only for the governmental entity that awards the contract unless:

(1) the solicitation for the job order contract and the contract specifically provide for use by other persons; or

(2) the governmental entity enters into an interlocal agreement that provides otherwise.

Sec. 2267.408. USE OF ARCHITECT OR ENGINEER. (a) If a job order contract or an order issued under the contract requires architectural or engineering services that constitute the practice of architecture within the meaning of Chapter 1051, Occupations Code, or the practice of engineering within the meaning of Chapter 1001, Occupations Code, the governmental entity shall select or designate an architect or engineer to prepare the construction documents for the project.

(b) Subsection (a) does not apply to a job order contract or an order issued under the contract for industrialized housing, industrialized buildings, or relocatable educational facilities subject to and approved under Chapter 1202, Occupations Code, if the contractor employs the services of an architect or engineer who approves the documents for the project.

Sec. 2267.409. JOB ORDER CONTRACT TERM. The base term for a job order contract may not exceed two years. The governmental entity may renew the contract annually for not more than three additional years.

Sec. 2267.410. JOB ORDERS. (a) An order for a job or project under a job order contract must be signed by the governmental entity's representative and the contractor.

(b) The order may be:

(1) a fixed price, lump-sum contract based substantially on contractual unit pricing applied to estimated quantities; or

(2) a unit price order based on the quantities and line items delivered.

Sec. 2267.411. PAYMENT AND PERFORMANCE BONDS. The contractor shall provide payment and performance bonds, if required by law, based on the amount or estimated amount of any order.

[Sections 2267.412-2267.450 reserved for expansion]

SUBCHAPTER J. ENFORCEMENT

Sec. 2267.451. VOID CONTRACT. A contract, including a job order, entered into in violation of this chapter is voidable as against public policy.

Sec. 2267.452. DECLARATORY OR INJUNCTIVE RELIEF. (a) This chapter may be enforced through an action for declaratory or injunctive relief filed not later than the 10th day after the date on which the contract is awarded.

(b) This section does not apply to enforcement of a contract entered into by a state agency. In this subsection, "state agency" has the meaning assigned by Section 2151.002. The term includes the Texas Facilities Commission.

SECTION 2.09. Section 252.048, Local Government Code, is amended by adding Subsection (c-1) to read as follows:

(c-1) If a change order for a public works contract in a municipality with a population of 500,000 or more involves a decrease or an increase of \$100,000 or less, or a lesser amount as provided by ordinance, the governing body of the municipality may grant general authority to an administrative official of the municipality to approve the change order.

SECTION 2.10. Section 271.054, Local Government Code, is amended to read as follows:

Sec. 271.054. COMPETITIVE PROCUREMENT REQUIREMENT. Before the governing body of an issuer may enter into a contract requiring an expenditure by or imposing an obligation or liability on the issuer, or on a subdivision of the issuer if the issuer is a county, of more than \$50,000, the governing body must:

(1) submit the proposed contract to competitive procurement; or

(2) use an alternate method of project delivery authorized by Chapter 2267, Government Code.

SECTION 2.11. Section 271.060, Local Government Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) The total price of a contract may not be increased by a change order unless provision has been made for the payment of the added cost by the appropriation of current funds or bond funds for that purpose, by the authorization of the issuance of certificates, or by a combination of those procedures.

(c) A contract with an ~~[The]~~ original contract price of \$1 million or more may not be increased by more than 25 percent. If a change order for a contract with an original contract price of less than \$1 million increases the contract amount to \$1 million or more, subsequent change orders may not increase the revised contract amount by more than 25 percent. ~~[The original price may not be decreased by more than 25 percent without the consent of the contractor.]~~

SECTION 2.12. Section 271.9051(b), Local Government Code, is amended to read as follows:

(b) In purchasing under this title any real property, personal property that is not affixed to real property, or services, if a municipality receives one or more competitive sealed bids from a bidder whose principal place of business is in the municipality and whose bid is within five percent of the lowest bid price received

by the municipality from a bidder who is not a resident of the municipality, the municipality may enter into a contract for construction services in an amount [an expenditure] of less than \$100,000 or a contract for other purchases in an amount of less than \$500,000 with:

- (1) the lowest bidder; or
- (2) the bidder whose principal place of business is in the municipality if the governing body of the municipality determines, in writing, that the local bidder offers the municipality the best combination of contract price and additional economic development opportunities for the municipality created by the contract award, including the employment of residents of the municipality and increased tax revenues to the municipality.

SECTION 2.13. Subchapter B, Chapter 223, Transportation Code, is amended by adding Section 223.049 to read as follows:

Sec. 223.049. CONTRACT WITH LAND OWNER FOR IMPROVING ACCESS TO LAND. (a) The department may, without complying with the competitive bidding procedures of Subchapter A, contract with an owner of land, including a subdivision, adjacent to a highway that is part of the state highway system to construct an improvement on the highway right-of-way that is directly related to improving access to or from the owner's land.

(b) An owner that enters into a contract with the department under this section must:

(1) comply with applicable department design and construction standards;

(2) comply with all laws, rules, regulations, and ordinances, including environmental requirements, that would be applicable if the department were performing the work;

(3) execute a performance and payment bond in accordance with Chapter 2253, Government Code; and

(4) make available for inspection by the department all books and other records in the possession of the owner that are related to the project.

(c) State and federal funds may not be used for the design, development, financing, or construction of a highway improvement under a contract described by this section.

ARTICLE 3. ADDITIONAL EXEMPTIONS

SECTION 3.01. Section 44.901, Education Code, is amended by adding Subsection (j) to read as follows:

(j) Chapter 2267, Government Code, does not apply to this section.

SECTION 3.02. Section 51.927, Education Code, is amended by adding Subsection (k) to read as follows:

(k) Chapter 2267, Government Code, does not apply to this section.

SECTION 3.03. Section 2166.406, Government Code, is amended by adding Subsection (k) to read as follows:

(k) Chapter 2267 does not apply to this section.

SECTION 3.04. Chapter 302, Local Government Code, is amended by adding Section 302.007 to read as follows:

Sec. 302.007. EXEMPTION FROM OTHER CONTRACTING LAW. Chapter 2267, Government Code, does not apply to this chapter.

SECTION 3.05. Subchapter E, Chapter 335, Local Government Code, is amended by adding Section 335.077 to read as follows:

Sec. 335.077. EXEMPTION FROM CONSTRUCTION CONTRACTING LAW. Chapter 2267, Government Code, does not apply to this chapter.

SECTION 3.06. Subchapter Q, Chapter 451, Transportation Code, is amended by adding Section 451.8025 to read as follows:

Sec. 451.8025. EXEMPTION FROM OTHER CONTRACTING LAW. Chapter 2267, Government Code, does not apply to this subchapter.

SECTION 3.07. Subchapter C, Chapter 452, Transportation Code, is amended by adding Section 452.1095 to read as follows:

Sec. 452.1095. EXEMPTION FROM OTHER CONTRACTING LAW FOR CERTAIN AUTHORITIES. (a) Chapter 2267, Government Code, does not apply to an authority consisting of one subregion governed by a subregional board created under Subchapter O.

(b) An authority to which this section applies may adopt design-build procedures that do not materially conflict with Subchapter H, Chapter 2267, Government Code.

SECTION 3.08. Section 60.401, Water Code, is amended by adding Subsection (d) to read as follows:

(d) Chapter 2267, Government Code, does not apply to this subchapter.

SECTION 3.09. Section 60.452(c), Water Code, is amended to read as follows:

(c) Chapter 2267, [Subchapter J, Chapter 271, Local] Government Code, does not apply to this subchapter.

ARTICLE 4. CONFORMING AMENDMENTS

SECTION 4.01. Section 252.021(a), Local Government Code, is amended to read as follows:

(a) Before a municipality may enter into a contract that requires an expenditure of more than \$50,000 from one or more municipal funds, the municipality must:

(1) comply with the procedure prescribed by this subchapter and Subchapter C for competitive sealed bidding or competitive sealed proposals;

(2) use the reverse auction procedure, as defined by Section 2155.062(d), Government Code, for purchasing; or

(3) comply with a method described by Chapter 2267, Government Code [Subchapter H or J, Chapter 271].

SECTION 4.02. Section 252.022(d), Local Government Code, is amended to read as follows:

(d) This chapter does not apply to an expenditure described by Section 252.021(a) if the governing body of a municipality determines that a method described by Chapter 2267, Government Code [Subchapter H, Chapter 271], provides a better value for the municipality with respect to that expenditure than the procedures described in this chapter and the municipality adopts and uses a method described in that subchapter with respect to that expenditure.

SECTION 4.03. Sections 252.043(d-1) and (e), Local Government Code, are amended to read as follows:

(d-1) A contract for construction of a project described by Subsection (d) that requires an expenditure of \$1.5 million or less may be awarded using the competitive sealed proposal procedure prescribed by Subchapter D, Chapter 2267, Government Code [~~Section 271.116~~].

(e) If the competitive sealed bidding requirement applies to the contract for construction of a facility, as that term is defined by Section 2267.001, Government Code [~~Section 271.111~~], the contract must be awarded to the lowest responsible bidder or awarded under the method described by Chapter 2267, Government Code [~~Subchapter H, Chapter 271~~].

SECTION 4.04. Sections 262.023(a) and (b-1), Local Government Code, are amended to read as follows:

(a) Before a county may purchase one or more items under a contract that will require an expenditure exceeding \$50,000, the commissioners court of the county must:

(1) comply with the competitive bidding or competitive proposal procedures prescribed by this subchapter;

(2) use the reverse auction procedure, as defined by Section 2155.062(d), Government Code, for purchasing; or

(3) comply with a method described by Chapter 2267, Government Code [~~Subchapter H, Chapter 271~~].

(b-1) A county that complies with a method described by Chapter 2267, Government Code [~~Subchapter H, Chapter 271~~], as provided by Subsection (a)(3), to enter into a contract for which payment will be made through anticipation notes authorized by Chapter 1431, Government Code, may not issue anticipation notes for the payment of that contract in an amount that exceeds the lesser of:

(1) 20 percent of the county's budget for the fiscal year in which the county enters into the contract; or

(2) \$10 million.

SECTION 4.05. Section 1002.110, Special District Local Laws Code, is amended to read as follows:

Sec. 1002.110. PUBLIC WORKS CONTRACTS. With respect to the construction of public works, the district has all of the powers and duties conferred on a municipality under Chapter 2267, [Subchapter H, Chapter 271, Local] Government Code, with respect to the construction of a facility. To the extent of any conflict, this section prevails over any other law relating to the construction of public works engaged in by the district.

SECTION 4.06. Section 1024.105(b), Special District Local Laws Code, is amended to read as follows:

(b) The board may act as a governmental entity under Chapter 2267, [Subchapter H, Chapter 271, Local] Government Code, for purposes of using the procurement procedures authorized by that chapter. For purposes of this subsection, notice under Section 2267.052(c), [271.112(d), Local] Government

Code, must be provided by the district in the same manner as provided for a conservation and reclamation district created under Section 59, Article XVI, Texas Constitution.

SECTION 4.07. Section 366.185(d-1), Transportation Code, is amended to read as follows:

(d-1) The rules adopted under Subsection (d) may not materially conflict with the design-build procedures provided by Subchapter H, Chapter 2267, [Subchapter J, Chapter 271, Local] Government Code, and shall provide materially similar injunctive and declaratory action enforcement rights regarding the improper disclosure or use of unique or nonordinary information as provided in that subchapter.

SECTION 4.08. Section 370.314(b), Transportation Code, is amended to read as follows:

(b) Procedures adopted under Subsection (a) may not materially conflict with the design-build procedures provided by Subchapter H, Chapter 2267, [Subchapter J, Chapter 271, Local] Government Code.

SECTION 4.09. Sections 460.406(c) and (d), Transportation Code, are amended to read as follows:

(c) The board of directors may authorize the negotiation of a contract without competitive sealed bids or proposals if:

(1) the aggregate amount involved in the contract is \$25,000 or less;
(2) the contract is for construction for which not more than one bid or proposal is received;

(3) the contract is for services or property for which there is only one source or for which it is otherwise impracticable to obtain competition;

(4) the contract is to respond to an emergency for which the public exigency does not permit the delay incident to the competitive process;

(5) the contract is for personal or professional services or services for which competitive bidding is precluded by law;

(6) the contract, without regard to form and which may include bonds, notes, loan agreements, or other obligations, is for the purpose of borrowing money or is a part of a transaction relating to the borrowing of money, including:

(A) a credit support agreement, such as a line or letter of credit or other debt guaranty;

(B) a bond, note, debt sale or purchase, trustee, paying agent, remarketing agent, indexing agent, or similar agreement;

(C) an agreement with a securities dealer, broker, or underwriter;
and

(D) any other contract or agreement considered by the board of directors to be appropriate or necessary in support of the authority's financing activities;

(7) the contract is for work that is performed and paid for by the day as the work progresses;

(8) the contract is for the purchase of land or a right-of-way;

(9) the contract is for the purchase of personal property sold:

(A) at an auction by a state licensed auctioneer;

(B) at a going out of business sale held in compliance with Subchapter F, Chapter 17, Business & Commerce Code; or

(C) by a political subdivision of this state, a state agency, or an entity of the federal government;

(10) the contract is for services performed by blind or severely disabled persons;

(11) the contract is for the purchase of electricity; or

(12) the contract is one awarded for alternate project delivery under Subchapters E, F, and G, Chapter 2267, [~~Sections 271.117-271.119, Local~~] Government Code.

(d) For the purposes of entering into a contract authorized by Subsection (c)(12), an authority is considered a "governmental entity" as described [~~defined~~] by Section 2267.002, [~~271.111, Local~~] Government Code.

ARTICLE 5. REPEALER

SECTION 5.01. The following are repealed:

(1) Sections 44.0315, 44.035, 44.036, 44.037, 44.038, 44.039, 44.040, and 44.041, Education Code;

(2) Sections 2166.2511, 2166.2526, 2166.2531, 2166.2532, 2166.2533, and 2166.2535, Government Code;

(3) Subchapters H and J, Chapter 271, Local Government Code; and

(4) Section 431.101(e), Transportation Code.

ARTICLE 6. TRANSITION; EFFECTIVE DATE

SECTION 6.01. (a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act.

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 6.02. This Act takes effect September 1, 2011.

Representative Callegari moved to adopt the conference committee report on **HB 628**.

The motion to adopt the conference committee report on **HB 628** prevailed by (Record 1691): 145 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; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.;

King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; 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; 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 — Dukes; Giddings; Gutierrez; Quintanilla.

STATEMENT OF VOTE

When Record No. 1691 was taken, I was in the house but away from my desk. I would have voted yes.

Dukes

SB 1134 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Craddick submitted the conference committee report on **SB 1134**.

Representative Craddick moved to adopt the conference committee report on **SB 1134**.

The motion to adopt the conference committee report on **SB 1134** prevailed by (Record 1692): 138 Yeas, 4 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; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Driver; Eiland; Eissler; Elkins; Farias; 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; 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; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Perry; Phillips; Pickett; Pitts; Price; 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.

Nays — Castro; Dutton; Farrar; Marquez.

Present, not voting — Mr. Speaker(C).

Absent — Deshotel; Dukes; Johnson; McClendon; Peña; Quintanilla; Villarreal.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1692. I intended to vote no.

Anchia

When Record No. 1692 was taken, I was in the house but away from my desk. I would have voted yes.

Dukes

I was shown voting yes on Record No. 1692. I intended to vote no.

D. Howard

When Record No. 1692 was taken, I was in the house but away from my desk. I would have voted yes.

McClendon

I was shown voting yes on Record No. 1692. I intended to vote no.

Menendez

I was shown voting yes on Record No. 1692. I intended to vote no.

Naishtat

HR 2666 - ADOPTED (by Harper-Brown)

The following privileged resolution was laid before the house:

HR 2666

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 1420** (continuation and functions of the Texas Department of Transportation; providing penalties) to consider and take action on the following matters:

(1) House Rule 13, Section 9(a)(4), is suspended to permit the committee to add text on a matter not included in either the house or senate version of the bill by adding Subchapter F-1 to Chapter 201, Transportation Code, and adding a related nonamendatory provision:

SECTION 15. (a) Chapter 201, Transportation Code, is amended by adding Subchapter F-1 to read as follows:

SUBCHAPTER F-1. COMPLIANCE PROGRAM

Sec. 201.451. ESTABLISHMENT AND PURPOSE. The commission shall establish a compliance program, which must include a compliance office to oversee the program. The compliance office is responsible for:

(1) acting to prevent and detect serious breaches of departmental policy, fraud, waste, and abuse of office, including any acts of criminal conduct within the department;

(2) independently and objectively reviewing, investigating, delegating, and overseeing the investigation of:

(A) conduct described by Subdivision (1);

(B) criminal activity in the department;

(C) allegations of wrongdoing by department employees;

(D) crimes committed on department property; and

(E) serious breaches of department policy;

(3) overseeing the operation of the telephone hotline established under Section 201.211;

(4) ensuring that members of the commission and department employees receive appropriate ethics training; and

(5) performing other duties assigned to the office by the commission.

Sec. 201.452. INVESTIGATION OVERSIGHT. (a) The compliance office has primary jurisdiction for oversight and coordination of all investigations occurring on department property or involving department employees.

(b) The compliance office shall coordinate and provide oversight for an investigation under this subchapter, but the compliance office is not required to conduct the investigation.

(c) The compliance office shall continually monitor an investigation conducted within the department, and shall report to the commission on the status of pending investigations.

Sec. 201.453. INITIATION OF INVESTIGATIONS. The compliance office may only initiate an investigation based on:

(1) authorization from the commission;

(2) approval of the director of the compliance office;

(3) approval of the director or deputy executive director of the department; or

(4) commission rules.

Sec. 201.454. REPORTS. (a) The compliance office shall report directly to the commission regarding performance of and activities related to investigations and provide the director with information regarding investigations as appropriate.

(b) The director of the compliance office shall present to the commission at each regularly scheduled commission meeting and at other appropriate times:

(1) reports of investigations; and

(2) a summary of information relating to investigations conducted under this subchapter that includes analysis of the number, type, and outcome of investigations, trends in investigations, and recommendations to avoid future complaints.

Sec. 201.455. COOPERATION WITH LAW ENFORCEMENT OFFICIALS AND OTHER ENTITIES. (a) The director of the compliance office shall provide information and evidence relating to criminal acts to the state auditor's office and appropriate law enforcement officials.

(b) The director of the compliance office shall refer matters for further civil, criminal, and administrative action to appropriate administrative and prosecutorial agencies, including the attorney general.

Sec. 201.456. AUTHORITY OF STATE AUDITOR. This subchapter or other law related to the operation of the department's compliance program does not preempt the authority of the state auditor to conduct an audit or investigation under Chapter 321, Government Code, or other law.

(b) Not later than January 1, 2013, the Texas Department of Transportation shall submit a report to the legislature on the effectiveness of the compliance program described by Subchapter F-1, Chapter 201, Transportation Code, as added by this Act, and any recommended changes in law to increase the effectiveness of the compliance program.

Explanation: The addition of text is necessary to establish a compliance program in the Texas Department of Transportation.

(2) House Rule 13, Section 9(a)(4), is suspended to permit the committee to add text on a matter not included in either the house or senate version of the bill by adding the following language to Section 222.106(i), Transportation Code:

(i) . . . A municipality may issue bonds to pay all or part of the cost of the transportation project and may pledge and assign all or a specified amount of money in the tax increment account to secure repayment of those bonds.

Explanation: The addition of text is necessary to allow a municipality to issue bonds to pay all or part of the cost of a transportation project and pledge and assign all or a specified amount of money in a tax increment account to secure repayment of those bonds.

(3) House Rule 13, Section 9(a)(4), is suspended to permit the committee to add text on a matter not included in either the house or senate version of the bill by adding the following language to Section 222.107(f), Transportation Code:

(f) The order or resolution designating an area as a transportation reinvestment zone must:

. . .

(5) establish an ad valorem tax increment account for the zone.

Explanation: The addition of text is necessary to authorize a county to establish an ad valorem tax increment account for a transportation reinvestment zone.

(4) House Rule 13, Section 9(a)(4), is suspended to permit the committee to add text on a matter not included in either the house or senate version of the bill by adding the following language to Section 222.107(h), Transportation Code:

(h) The commissioners court may:

(1) from taxes collected on property in a zone, pay into a tax increment account for the zone an amount equal to the tax increment produced by the county less any amounts allocated under previous agreements, including agreements under Section 381.004, Local Government Code, or Chapter 312, Tax Code;

. . . .

Explanation: The addition of text is necessary to allow a county to pay into a tax increment account certain amounts from taxes collected on property in a transportation reinvestment zone.

(5) House Rule 13, Section 9(a)(4), is suspended to permit the committee to add text on a matter not included in either the house or senate version of the bill by adding the following language to Section 222.107, Transportation Code:

(i-1) In the event a county collects a tax increment, it may issue bonds to pay all or part of the cost of a transportation project and may pledge and assign all or a specified amount of money in the tax increment account to secure those bonds.

Explanation: The addition of text is necessary to allow a county to issue bonds to pay all or part of the cost of a transportation project and pledge and assign all or a specified amount of money in a tax increment account to secure those bonds.

(6) House Rule 13, Section 9(a)(4), is suspended to permit the committee to add text on a matter not included in either the house or senate version of the bill by adding the following provision to Subchapter E, Chapter 223, Transportation Code, and adding a related nonamendatory provision:

Sec. 223.2012. NORTH TARRANT EXPRESS PROJECT PROVISIONS.

(a) In this section, the North Tarrant Express project is the project described by Section 223.201(f)(3) entered into on June 23, 2009.

(b) The comprehensive development agreement for the North Tarrant Express project may provide for negotiating and entering into facility agreements for future phases or segments of the project at the times that the department considers advantageous to the department.

(c) The department is not required to use any further competitive procurement process to enter into one or more related facility agreements with the developer or an entity controlled by, to be controlled by, or to be under common control with the developer under the comprehensive development agreement for the North Tarrant Express project.

(d) A facility agreement for the North Tarrant Express project must terminate on or before June 22, 2061. A facility agreement may not be extended or renewed beyond that date.

(e) The department may include or negotiate any matter in a comprehensive development agreement for the North Tarrant Express project that the department considers advantageous to the department.

(f) The comprehensive development agreement for the North Tarrant Express project may provide the developer or an entity controlled by, to be controlled by, or to be under common control with the developer with a right of first negotiation under which the developer may elect to negotiate with the department and enter into one or more related facility agreements for future phases or segments of the project.

(b) This Act does not validate any governmental act or decision that:

(1) is inconsistent with . . . Section 223.2012, Transportation Code, as added by this Act, relating to the North Tarrant Express Project;

....

Explanation: The addition of text is necessary to implement provisions related to the comprehensive development agreement entered into for the North Tarrant Express Project.

(7) House Rule 13, Section 9(a)(4), is suspended to permit the committee to add text on a matter not included in either the house or senate version of the bill by making the following changes to Section 621.102, Transportation Code:

Sec. 621.102. ~~[COMMISSION'S]~~ AUTHORITY TO SET MAXIMUM WEIGHTS. (a) The executive director of the Texas Department of Transportation ~~[commission]~~ may set the maximum single axle weight, tandem axle weight, or gross weight of a vehicle, or maximum single axle weight, tandem axle weight, or gross weight of a combination of vehicles and loads, that may be moved over a state highway or a farm or ranch road if the executive director ~~[commission]~~ finds that heavier maximum weight would rapidly deteriorate or destroy the road or a bridge or culvert along the road. A maximum weight set under this subsection may not exceed the maximum set by statute for that weight.

(b) ~~[The commission must set a maximum weight under this section by order entered in its minutes.]~~

~~[(e)]~~ The executive director of the Texas Department of Transportation ~~[commission]~~ must make the finding under this section on an engineering and traffic investigation and in making the finding shall consider the width, condition, and type of pavement structures and other circumstances on the road.

(c) ~~[(d)]~~ A maximum weight or load set under this section becomes effective on a highway or road when appropriate signs giving notice of the maximum weight or load are erected on the highway or road by the Texas Department of Transportation under order of the commission.

(d) ~~[(e)]~~ A vehicle operating under a permit issued under Section 623.011, 623.071, 623.094, 623.121, 623.142, 623.181, 623.192, or 623.212 may operate under the conditions authorized by the permit over a road for which the executive director of the Texas Department of Transportation ~~[commission]~~ has set a maximum weight under this section.

(e) ~~[(f)]~~ For the purpose of this section, a farm or ranch road is a state highway that is shown in the records of the commission to be a farm-to-market or ranch-to-market road.

(f) ~~[(g)]~~ This section does not apply to a vehicle delivering groceries, farm products, or liquefied petroleum gas.

Explanation: The addition of text is necessary to allow the executive director of the Texas Department of Transportation to set maximum weights for state highways, roads, and bridges.

HR 2666 was adopted by (Record 1693): 144 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; 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; 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; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Taylor, V.

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

Absent — Johnson; Torres; Villarreal.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1693. I intended to vote no.

Kolkhorst

When Record No. 1693 was taken, I was temporarily out of the house chamber. I would have voted yes.

Torres

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 3).

SB 1420 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Harper-Brown submitted the conference committee report on **SB 1420**.

SB 1420 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE WEBER: SH 288 and U.S. 290 Hempstead are included in the projects to be developed as a CDA. Is the intent for these projects to be developed by the counties or by TxDOT?

REPRESENTATIVE HARPER-BROWN: **SB 1420** adds Section 223.201(f)(6) and (7) to the Transportation Code, authorizing TxDOT to enter into a CDA for those projects. Those projects are also included in Section 228.011(a), Transportation Code, meaning that a county acting under Chapter 284, Transportation Code, has primary responsibility for the financing, construction, and operation of those projects.

The addition of those projects in the bill is intended to implement, and to require the applicable counties and TxDOT to comply with, the requirements of Section 228.011(e) and (f), Transportation Code. Therefore, if the county declines to develop the projects, or fails to enter into a contract for the projects as required by those sections, TxDOT would have the opportunity to enter into a contract to develop the projects.

REMARKS ORDERED PRINTED

Representative Weber moved to print remarks between Representative Harper-Brown and Representative Weber.

The motion prevailed.

Representative Harper-Brown moved to adopt the conference committee report on **SB 1420**.

The motion to adopt the conference committee report on **SB 1420** prevailed by (Record 1694): 118 Yeas, 26 Nays, 1 Present, not voting.

Yeas — Alonzo; Alvarado; Anderson, C.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Burkett; Burnam; Button; Cain; Callegari; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Deshotel; Driver; Dukes; Eissler; Elkins; Farias; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez Luna; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kuempel; Laubenberg; Legler; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; Menendez; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheffield; Shelton; Smith, T.; Smith, W.; Solomons; Strama; Taylor, L.; Thompson; Torres; Truitt; Turner; Veasey; Weber; Woolley; Workman; Zedler; Zerwas.

Nays — Anchia; Anderson, R.; Brown; Carter; Castro; Davis, Y.; Dutton; Eiland; Farrar; Hilderbran; Hunter; Isaac; Kleinschmidt; Kolkhorst; Landtroop; Larson; Lavender; McClendon; Quintanilla; Sheets; Simpson; Smithee; Taylor, V.; Vo; Walle; White.

Present, not voting — Mr. Speaker(C).

Absent — Aliseda; Allen; Lewis; Miles; Villarreal.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1694. I intended to vote no.

Farias

I was shown voting yes on Record No. 1694. I intended to vote no.

Harless

I was shown voting no on Record No. 1694. I intended to vote yes.

McClendon

I was shown voting yes on Record No. 1694. I intended to vote no.

Menendez

I was shown voting yes on Record No. 1694. I intended to vote no.

Naishtat

HR 2730 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the speaker announced the introduction of **HR 2730**, suspending the limitations on the conferees for **SB 23**.

NOTICE GIVEN

Pursuant to Rule 14, Section 4 of the House Rules, the speaker, at 3:52 p.m., gave notice that he would recognize Representative Geren to make a motion to suspend all necessary rules to consider the conference committee report on **SB 1811** before it is eligible for consideration.

HB 1335 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Allen submitted the following conference committee report on **HB 1335**:

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 1335** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Van de Putte

Carona

Lucio

Shapiro

Zaffirini

On the part of the senate

Allen

Reynolds

Nash

Mallory Caraway

Thompson

On the part of the house

HB 1335, A bill to be entitled An Act relating to certain resources available to teachers of a public school student with a disability under the statewide plan for delivery of services to public school students with disabilities.

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

SECTION 1. Section 29.001, Education Code, is amended to read as follows:

Sec. 29.001. STATEWIDE PLAN. The agency shall develop, and modify as necessary, a statewide design, consistent with federal law, for the delivery of services to children with disabilities in this state that includes rules for the administration and funding of the special education program so that a free appropriate public education is available to all of those children between the ages of three and 21. The statewide design shall include the provision of services primarily through school districts and shared services arrangements,

supplemented by regional education service centers. The agency shall also develop and implement a statewide plan with programmatic content that includes procedures designed to:

(1) ensure state compliance with requirements for supplemental federal funding for all state-administered programs involving the delivery of instructional or related services to students with disabilities;

(2) facilitate interagency coordination when other state agencies are involved in the delivery of instructional or related services to students with disabilities;

(3) periodically assess statewide personnel needs in all areas of specialization related to special education and pursue strategies to meet those needs through a consortium of representatives from regional education service centers, local education agencies, and institutions of higher education and through other available alternatives;

(4) ensure that regional education service centers throughout the state maintain a regional support function, which may include direct service delivery and a component designed to facilitate the placement of students with disabilities who cannot be appropriately served in their resident districts;

(5) allow the agency to effectively monitor and periodically conduct site visits of all school districts to ensure that rules adopted under this section are applied in a consistent and uniform manner, to ensure that districts are complying with those rules, and to ensure that annual statistical reports filed by the districts and not otherwise available through the Public Education Information Management System under Section 42.006, are accurate and complete;

(6) ensure that appropriately trained personnel are involved in the diagnostic and evaluative procedures operating in all districts and that those personnel routinely serve on district admissions, review, and dismissal committees;

(7) ensure that an individualized education program for each student with a disability is properly developed, implemented, and maintained in the least restrictive environment that is appropriate to meet the student's educational needs;

(8) ensure that, when appropriate, each student with a disability is provided an opportunity to participate in career and technology and physical education classes, in addition to participating in regular or special classes;

(9) ensure that each student with a disability is provided necessary related services; ~~and~~

(10) ensure that an individual assigned to act as a surrogate parent for a child with a disability, as provided by 20 U.S.C. Section 1415(b) ~~[and its subsequent amendments]~~, is required to:

(A) complete a training program that complies with minimum standards established by agency rule;

(B) visit the child and the child's school;

(C) consult with persons involved in the child's education, including teachers, caseworkers, court-appointed volunteers, guardians ad litem, attorneys ad litem, foster parents, and caretakers;

- (D) review the child's educational records;
 - (E) attend meetings of the child's admission, review, and dismissal committee;
 - (F) exercise independent judgment in pursuing the child's interests; and
 - (G) exercise the child's due process rights under applicable state and federal law; and
- (11) ensure that each district develops a process to be used by a teacher who instructs a student with a disability in a regular classroom setting:
- (A) to request a review of the student's individualized education program;
 - (B) that provides for a timely district response to the teacher's request; and
 - (C) that provides for notification to the student's parent or legal guardian of that response.

SECTION 2. This Act applies beginning with the 2011-2012 school year.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2011.

Representative Allen moved to adopt the conference committee report on **HB 1335**.

The motion to adopt the conference committee report on **HB 1335** prevailed by (Record 1695): 137 Yeas, 6 Nays, 1 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Berman; Bohac; Bonnen; Branch; Brown; Burnam; Button; Cain; Callegari; Carter; Castro; 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; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, D.; Huberty; Hughes; Hunter; Isaac; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; 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; 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.; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Aycock; Beck; Chisum; Landtroop; Lyne; Smithee.

Present, not voting — Mr. Speaker(C).

Absent — Burkett; Creighton; Howard, C.; Jackson; Naishtat; Villarreal.

STATEMENTS OF VOTE

When Record No. 1695 was taken, my vote failed to register. I would have voted yes.

C. Howard

When Record No. 1695 was taken, I was in the house but away from my desk. I would have voted yes.

Naishtat

I was shown voting yes on Record No. 1695. I intended to vote no.

Price

I was shown voting yes on Record No. 1695. I intended to vote no.

V. Taylor

HB 1400 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Elkins submitted the following conference committee report on **HB 1400**:

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 1400** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

West	Elkins
Nichols	Anchia
Shapiro	Bonnen
Watson	T. King
Wentworth	

On the part of the senate

On the part of the house

HB 1400, A bill to be entitled An Act relating to public improvement districts designated by a municipality or county.

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

SECTION 1. Section 372.003, Local Government Code, is amended by adding Subsection (b-1) to read as follows:

(b-1) Payment of expenses under Subsection (b)(14) may also include expenses related to the operation and maintenance of mass transportation facilities.

SECTION 2. Subchapter A, Chapter 372, Local Government Code, is amended by adding Section 372.0035 to read as follows:

Sec. 372.0035. COMMON CHARACTERISTIC OR USE FOR PROJECTS IN CERTAIN MUNICIPALITIES. (a) This section applies only to:

(1) a municipality that has a population of more than one million and a council-manager form of government and that is located wholly or partly in a county with a population of more than two million; and

(2) a public improvement district established under this subchapter and solely composed of territory in which the only businesses are hotels with 100 or more rooms ordinarily used for sleeping.

(b) A municipality may undertake a project that confers a special benefit on areas that share a common characteristic or use. The areas may be noncontiguous.

(c) This section does not prohibit a municipality from or limit a municipality to establishing a district that includes a noncontiguous area authorized by this subchapter.

SECTION 3. Subchapter A, Chapter 372, Local Government Code, is amended by adding Section 372.0055 to read as follows:

Sec. 372.0055. DEFERRED ASSESSMENT; ESTIMATE. If a proposed improvement under Section 372.005 includes a deferred assessment, before holding the hearing required by Section 372.009, the governing body of the municipality or county must estimate:

(1) the appraised value of taxable real property liable for assessment in the district; and

(2) the cost of the improvement.

SECTION 4. Section 372.017(b), Local Government Code, is amended to read as follows:

(b) After all objections have been heard and the governing body has passed on the objections, the governing body by ordinance or order shall levy the assessment as a special assessment on the property. The governing body by ordinance or order shall specify the method of payment of the assessment. The governing body may defer an assessment until a date the governing body specifies in the ordinance or order. The governing body may provide that assessments be paid in periodic installments, at an interest rate and for a period approved by the governing body. The provision that assessments be paid in periodic installments may, but is not required to, result in level annual installment payments. The installments must be in amounts necessary to meet annual costs for improvements and must continue for:

(1) the period necessary to retire the indebtedness on the improvements; or

(2) the period approved by the governing body for the payment of the installments.

SECTION 5. Section 372.041(a), Local Government Code, is amended to read as follows:

(a) A home-rule municipality may create improvement districts for the purposes of:

(1) levying, straightening, widening, enclosing, or otherwise improving a river, creek, bayou, stream, other body of water, street, or alley;

(2) draining, grading, filling, and otherwise protecting and improving the territory within the municipality's limits; ~~and~~

(3) issuing bonds to finance improvements listed in this subsection; and

(4) financing an improvement described in Subchapter A.
SECTION 6. This Act takes effect September 1, 2011.

Representative Elkins moved to adopt the conference committee report on **HB 1400**.

The motion to adopt the conference committee report on **HB 1400** prevailed by (Record 1696): 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; 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; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; 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 — Lozano; Oliveira; Villarreal.

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. 42 and Senate List Nos. 37 and 38).

(Keffer in the chair)

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 4).

(Speaker in the chair)

HB 2817 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative L. Taylor submitted the following conference committee report on **HB 2817**:

Austin, Texas, May 28, 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 2817** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Duncan	L. Taylor
Jackson	Burkett
Williams	P. King
Ellis	Branch
Van de Putte	Hernandez Luna
On the part of the senate	On the part of the house

HB 2817, A bill to be entitled An Act relating to certain election practices and procedures.

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

SECTION 1. Section 4.004(a), Election Code, is amended to read as follows:

(a) The notice of a general or special election must state:

- (1) the nature and date of the election;
- (2) except as provided by Subsection (c), the location of each polling place~~[-, including each early voting polling place];~~
- (3) the hours that the polls will be open; and
- (4) any other information required by other law.

SECTION 2. 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) not have been finally convicted of an offense under Section 32.51, Penal Code.

SECTION 3. Section 18.064, Election Code, is amended to read as follows:

Sec. 18.064. SANCTION FOR NONCOMPLIANCE. If a registrar fails to substantially comply with Section 15.083, 16.032, ~~[18.042,]~~ or 18.061 or with rules adopted by the secretary of state implementing the statewide computerized voter registration list, the registrar is not entitled to receive state funds for financing voter registration in the county.

SECTION 4. Section 18.065(a), Election Code, is amended to read as follows:

(a) The secretary of state shall monitor each registrar for substantial compliance with Sections 15.083, 16.032, ~~[18.042,]~~ and 18.061 and with rules implementing the statewide computerized voter registration list.

SECTION 5. Subchapter C, Chapter 18, Election Code, is amended by adding Section 18.068 to read as follows:

Sec. 18.068. VOTING HISTORY. Not later than the 30th day after the date of the primary, runoff primary, or general election or any special election ordered by the governor, the registrar shall electronically submit to the secretary of state the record of each voter participating in the election.

SECTION 6. Section 19.002(d), Election Code, is amended to read as follows:

(d) The comptroller may not issue a warrant if on June 1 of the year in which the warrant is to be issued the most recent notice received by the comptroller from the secretary of state under Section 18.065 indicates that the registrar is not in substantial compliance with Section 15.083, 16.032, ~~[18.042,]~~ or 18.065 or with rules implementing the registration service program.

SECTION 7. Section 31.006, Election Code, is amended to read as follows:

Sec. 31.006. REFERRAL OF COMPLAINT TO ATTORNEY GENERAL.
(a) If, after receiving a complaint alleging criminal conduct in connection with an election, the secretary of state determines that there is reasonable cause to suspect that the alleged criminal conduct occurred, the secretary shall promptly refer the complaint to the attorney general. The secretary shall deliver to the attorney general all pertinent documents in the secretary's possession.

(b) The documents submitted to the attorney general under Subsection (a) are not considered public information until the attorney general has completed the investigation or has made a determination that the complaint referred does not warrant an investigation.

SECTION 8. Section 31.092(b), Election Code, is amended to read as follows:

(b) The county election officer may contract with the county executive committee of a political party holding a primary election in the county to perform election services, as provided by this subchapter, in the party's general primary election or runoff primary election, or both. ~~[To be binding, a contract under this subsection must be approved in writing by the secretary of state, and the execution of a contract is not completed until written approval is obtained.]~~

SECTION 9. Section 31.093(a), Election Code, is amended to read as follows:

(a) If requested to do so by a political subdivision or political party, the county elections administrator shall enter into a contract to furnish the election services requested, in accordance with a cost schedule agreed on by the contracting parties. ~~[If the contracting parties are unable to reach an agreement, on referral by either party, the secretary of state shall either prescribe terms that the administrator must accept or instruct the administrator to decline to enter into a contract with the requesting party.]~~

SECTION 10. Section 32.002(c), Election Code, is amended to read as follows:

(c) The presiding judge and alternate presiding judge must be affiliated or aligned with different political parties, subject to this subsection. Before July of each year in a county to which Subsection (a)(1) applies or before August of each year in a county to which Subsection (a)(2) applies, the county chair of a political party whose candidate for governor received the highest or second highest number of votes in the county in the most recent gubernatorial general election shall submit in writing to the commissioners court a list of names of persons in order of preference for each precinct who are eligible for appointment as an election judge. The county chair may supplement the list of names of persons until the 20th day before a general election or the 15th day before a special election in case an appointed election judge becomes unable to serve. The commissioners court shall appoint the first person meeting the applicable eligibility requirements from the list submitted in compliance with this subsection by the party with the highest number of votes in the precinct as the presiding judge and the first person meeting the applicable eligibility requirements from the list submitted in compliance with this subsection by the party with the second highest number of votes in the precinct as the alternate presiding judge. If the candidates for governor of two political parties received the same number of votes in the precinct, the first person meeting the applicable eligibility requirements from the list submitted by the party whose candidate for governor received the highest number of votes in the county shall be appointed as the presiding judge and the first person meeting the applicable eligibility requirements from the list submitted by the party whose candidate for governor received the second highest number of votes in the county shall be appointed as the alternate presiding judge. The commissioners court may reject the list if the persons whose names are submitted on the list are determined not to meet the applicable eligibility requirements.

SECTION 11. Section 33.006(b), Election Code, is amended to read as follows:

(b) A certificate of appointment must:

(1) be in writing and signed by the appointing authority or, for an appointment for a write-in candidate under Section 33.004, by each of the voters making the appointment;

(2) indicate the capacity in which the appointing authority is acting;

(3) state the name, residence address, and voter registration number of the appointee and be signed by the appointee;

(4) identify the election and the precinct polling place or other location at which the appointee is to serve;

(5) in an election on a measure, identify the measure if more than one is to be voted on and state which side of the measure the appointee represents; and

(6) contain an affidavit executed by the appointee stating that the appointee will not have possession of a device capable ~~[any mechanical or electronic means]~~ of recording images or sound or that the appointee will disable or deactivate the device while serving as a watcher.

SECTION 12. Section 33.051(c), Election Code, is amended to read as follows:

(c) A watcher may not be accepted for service if the watcher has possession of a device capable ~~[any mechanical or electronic means]~~ of recording images or sound unless the watcher agrees to disable or deactivate the device. The presiding judge may inquire whether a watcher has possession of any prohibited recording device before accepting the watcher for service.

SECTION 13. Section 66.058, Election Code, is amended by amending Subsection (a) and adding Subsection (h) to read as follows:

(a) Except as otherwise provided by this code, the precinct election records shall be preserved by the authority to whom they are distributed:

(1) in an election involving a federal office, for at least 22 months after election day in accordance with federal law; or

(2) in an election not involving a federal office, for at least six months after election day.

(h) For the preservation of precinct election records in an election involving a federal office, the secretary of state shall instruct the affected authorities on the actions necessary to comply with federal law and otherwise implement this section.

SECTION 14. Section 84.007(b), Election Code, is amended to read as follows:

(b) An application must be submitted to the early voting clerk by:

(1) mail;

(2) common or contract carrier; or

(3) telephonic facsimile machine, ~~[if the applicant is absent from the county and]~~ if a machine is available in the clerk's office.

SECTION 15. Section 85.004, Election Code, is amended to read as follows:

Sec. 85.004. PUBLIC NOTICE OF MAIN POLLING PLACE LOCATION. The election order and the election notice must state the location of the main ~~[each]~~ early voting polling place.

SECTION 16. Sections 85.032(b), (d), and (f), Election Code, are amended to read as follows:

(b) The ballot box in which voters deposit their marked early voting ballots must have two locks, each with a different key, and must be designed and constructed so that the box can be sealed to detect any unauthorized opening of the box and that the ballot slot can be sealed to prevent any unauthorized deposit in the box. The seals for the boxes must be serially numbered for each election. The procedures prescribed by Sections 127.064, 127.065, 127.066, and 127.068 governing the use of sealed ballot boxes in electronic voting system elections apply to the use of sealed ballot boxes under this title to the extent those procedures can be made applicable~~[-, with references to the central counting station being applied to the early voting ballot board]~~. The secretary of state shall prescribe any procedures necessary to implement the use of sealed ballot boxes in early voting.

(d) Each custodian shall retain possession of the key entrusted to the custodian until it is delivered to the presiding judge of the central counting station ~~[early voting ballot board under Subchapter B, Chapter 87]~~.

(f) The secretary of state shall prescribe procedures providing for the security of the voted early voting ballots from the last day of voting by personal appearance at a polling place until the day the ballots are counted. ~~[The procedures must include security measures covering the transfer of the ballots between the early voting clerk and the early voting ballot board.]~~

SECTION 17. Section 87.021, Election Code, is amended to read as follows:

Sec. 87.021. **BALLOTS AND OTHER MATERIALS DELIVERED TO BOARD.** The early voting clerk shall deliver to the early voting ballot board:

(1) in an election in which regular paper ballots are used for early voting by personal appearance, each ballot box, in accordance with Section 85.032(b), containing the early voting ballots voted by personal appearance and the clerk's key to each box;

(2) the jacket envelopes containing the early voting ballots voted by mail, regardless of the ballot type or voting system used;

(3) the poll lists prepared in connection with early voting by personal appearance;

(4) the list of registered voters used in conducting early voting; and

(5) a ballot transmittal form that includes a statement of the number of early voting ballots voted by mail, regardless of the ballot type or voting system used, that are delivered to the early voting ballot board, and in an election in which regular paper ballots are used for early voting by personal appearance, the number of names appearing on the poll lists prepared in connection with early voting by personal appearance.

SECTION 18. Subchapter B, Chapter 87, Election Code, is amended by adding Section 87.0211 to read as follows:

Sec. 87.0211. **ELECTRONIC DELIVERY OF MATERIALS RECORDED ELECTRONICALLY.** If ballot materials and ballot applications are recorded electronically as provided by Section 87.126, the early voting clerk may deliver those materials to the early voting ballot board through electronic means.

SECTION 19. Section 87.0221(a), Election Code, is amended to read as follows:

(a) In an election in which regular paper ballots are used for early voting by personal appearance or by mail, the materials may be delivered to the board between the end of the period for early voting by personal appearance and the closing of the polls on election day, or as soon after closing as practicable, at the time or times specified by the presiding judge of the board.

SECTION 20. Section 87.023(a), Election Code, is amended to read as follows:

(a) In an election in which early voting ballots are to be counted by automatic tabulating equipment at a central counting station, the ballots voted by mail to be automatically counted may be delivered to the board between the end of the period for early voting by personal appearance and the closing of the polls on election day, or as soon after closing as practicable, at intervals specified by the presiding judge of the board.

SECTION 21. Section 87.027, Election Code, is amended by adding Subsection (m) to read as follows:

(m) If ballot materials or ballot applications are recorded electronically as provided by Section 87.126, the signature verification committee may use an electronic copy of a carrier envelope certificate or the voter's ballot application in making the comparison under Subsection (i).

SECTION 22. Subchapter G, Chapter 87, Election Code, is amended by adding Section 87.126 to read as follows:

Sec. 87.126. ELECTRONIC RECORDING OF BALLOT MATERIALS AND APPLICATIONS. (a) The early voting clerk may electronically record applications for a ballot to be voted by mail, jacket envelopes, carrier envelopes, and ballots.

(b) The secretary of state may adopt rules providing requirements for the electronic image quality and storage of the electronic images of the documents described by Subsection (a).

SECTION 23. Section 101.013, Election Code, is amended to read as follows:

Sec. 101.013. DESIGNATION OF SECRETARY OF STATE. (a) The secretary of state is designated as the state office to provide information regarding voter registration procedures and absentee ballot procedures, including procedures related to the federal write-in absentee ballot, to be used by persons eligible to vote under the federal Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. Section 1973ff et seq.), as amended.

(b) The secretary of state is designated as the state coordinator between military and overseas voters and county election officials. A county election official shall:

(1) cooperate with the secretary of state to ensure that military and overseas voters timely receive accurate balloting materials that a voter is able to cast in time for the election; and

(2) otherwise comply with the federal Military and Overseas Voter Empowerment Act (Pub. L. No. 111-84, Div. A, Title V, Subt. H).

(c) The secretary of state may adopt rules as necessary to implement this section.

SECTION 24. Section 112.002(a), Election Code, is amended to read as follows:

(a) After changing residence to another county, a person is eligible to vote a limited ballot by personal appearance during the early voting period or by mail if:

(1) the person would have been eligible to vote in the county of former residence on election day if still residing in that county;

(2) the person is registered to vote in the county of former residence at the time the person:

(A) offers to vote in the county of new residence; or

(B) submitted a voter registration application in the county of new residence; and

(3) a voter registration for the person in the county of new residence is not effective on or before election day.

SECTION 25. Section 127.007, Election Code, is amended to read as follows:

Sec. 127.007. PLAN FOR COUNTING STATION OPERATION. (a) The manager shall establish and implement a written plan for the orderly operation of the central counting station.

(b) The plan required under this section must address the process for comparing the number of voters who signed the combination form with the number of votes cast for the entire election.

SECTION 26. Section 127.201, Election Code, is amended by adding Subsection (g) to read as follows:

(g) This section does not apply to the tabulation of electronic voting system results for a voting system that uses direct recording electronic voting machines.

SECTION 27. Section 129.023(c), Election Code, is amended to read as follows:

(c) The general custodian of election records shall adopt procedures for testing that:

- (1) direct the testing board to cast votes;
- (2) verify that each contest position, as well as each precinct and ballot style, on the ballot can be voted and is accurately counted ~~[for each precinct and ballot style];~~
- (3) include overvotes and undervotes for each race, if applicable to the system being tested;
- (4) include straight-party votes and crossover votes;
- (5) include write-in votes, when applicable to the election;
- (6) include provisional votes, if applicable to the system being tested;
- (7) calculate the expected results from the test ballots;
- (8) ensure that each voting machine has any public counter reset to zero and presented to the testing board for verification before testing;
- (9) require that, for each feature of the system that allows disabled voters to cast a ballot, at least one vote be cast and verified by a two-person testing board team using that feature; and
- (10) require that, when all votes are cast, the general custodian of election records and the testing board observe the tabulation of all ballots and compare the actual results to the expected results.

SECTION 28. Section 141.040, Election Code, is amended to read as follows:

Sec. 141.040. NOTICE OF DEADLINES. (a) The authority with whom ~~[Not later than the 30th day before the first day on which a candidate may file]~~ an application for a place on the ballot under this subchapter~~[the authority with whom the application]~~ must be filed shall post notice of the dates of the filing period in a public place in a building in which the authority has an office not later than the 30th day before:

- (1) the first day on which a candidate may file the application; or
- (2) the last day on which a candidate may file the application, if this code does not designate a first day on which the candidate may file the application.

(b) This section does not apply to an office filled at the general election for state and county officers.

SECTION 29. Section 145.001, Election Code, is amended by amending Subsection (b) and adding Subsection (d-1) to read as follows:

(b) A ~~[To be effective, a]~~ withdrawal request must:

(1) be in writing and be signed and acknowledged by the candidate; and

(2) be timely filed with the appropriate authority or an agent of an authority only as expressly provided by this code.

(d-1) A withdrawal that is not filed in compliance with Subsection (b) has no legal effect and is not considered filed.

SECTION 30. Section 145.005, Election Code, is amended to read as follows:

Sec. 145.005. EFFECT OF VOTES CAST FOR DECEASED, WITHDRAWN, OR INELIGIBLE CANDIDATE. (a) If the name of a deceased, withdrawn, or ineligible candidate appears on the ballot under this chapter, the votes cast for the candidate shall be counted and entered on the official election returns in the same manner as for the other candidates.

(b) If the deceased, withdrawn, or ineligible candidate receives the vote required for election, the resulting vacancy shall be filled in the regular manner.

(c) If the deceased, withdrawn, or ineligible candidate and another candidate tie for the most votes in an election in which a plurality vote is sufficient for election, the other candidate is considered to be elected. If more than one other candidate is tied with the deceased, withdrawn, or ineligible candidate, the winner of the election shall be determined by resolving the tie between the other candidates in the regular manner for resolving a tie vote in the election.

(d) In a race in which a runoff is required, if the deceased, withdrawn, or ineligible candidate received the vote that would entitle the candidate to a place on the runoff election ballot or tied for that number of votes, the candidates in the runoff shall be determined in the regular manner but without regard to the votes received by the deceased, withdrawn, or ineligible candidate.

SECTION 31. Sections 145.092(a) and (d), Election Code, are amended to read as follows:

(a) Except as otherwise provided by this section, a candidate may not withdraw from an election after 5 p.m. of the third day after the deadline for filing the candidate's application for a place on the ballot ~~[second day before the beginning of early voting by personal appearance]~~.

(d) A candidate in a runoff election ~~[following a main election subject to Subsection (b)]~~ may not withdraw from the election after 5 p.m. of the third day after the date of the main election.

SECTION 32. Section 145.094(a), Election Code, is amended to read as follows:

(a) The name of a candidate shall be omitted from the ballot if the candidate:

(1) dies before the second day before the date of the deadline for filing the candidate's application for a place on the ballot;

(2) withdraws or is declared ineligible within the time prescribed by Section 145.092(a) ~~[before 5 p.m. of the second day before the beginning of early voting by personal appearance]~~, in an election subject to that section ~~[Section 145.092(a)]~~;

(3) withdraws or is declared ineligible within the time prescribed by Section 145.092(b) ~~[before 5 p.m. of the 53rd day before election day]~~, in an election subject to that section ~~[Section 145.092(b)]~~; or

(4) withdraws or is declared ineligible within the time prescribed by Section 145.092(f) ~~[before 5 p.m. of the 67th day before election day]~~, in an election subject to that section ~~[Section 145.092(f)]~~.

SECTION 33. Section 172.052(a), Election Code, is amended to read as follows:

(a) A candidate for nomination may not withdraw from the general primary election after the first day after the deadline for filing the candidate's application for a place on the general primary election ballot ~~[62nd day before general primary election day]~~.

SECTION 34. Section 172.057, Election Code, is amended to read as follows:

Sec. 172.057. WITHDRAWN, DECEASED, OR INELIGIBLE CANDIDATE'S NAME OMITTED FROM GENERAL PRIMARY BALLOT. A candidate's name shall be omitted from the general primary election ballot if the candidate withdraws, dies, or is declared ineligible within the time prescribed by Section 172.052(a) ~~[on or before the 62nd day before general primary election day]~~.

SECTION 35. Sections 174.022(a), (b), and (c), Election Code, are amended to read as follows:

(a) The precinct conventions may ~~[shall]~~ be held in the regular county election precincts on:

(1) general primary election day; and

(2) a date determined by the county executive committee that occurs not later than the fifth day after the date of the general primary election ~~[in the regular county election precincts]~~.

(b) Consistent with Subsection (c), not ~~[Not]~~ later than the date of the regular drawing for position on the general primary election ballot, the county executive committee shall set the hour and place for convening each precinct convention for the precincts served by the committee. If the county executive committee fails to do so, the county chair shall set, consistent with Subsection (c), the hour and place.

(c) If precinct conventions are held on general primary election day, the ~~[The]~~ hour set for convening the conventions may not be earlier than 7 p.m. or later than 9 p.m., but a ~~[Notwithstanding the hour set for convening, the]~~ convention may not convene until the last voter has voted at the precinct polling

place. If precinct conventions are held on a day other than general primary election day, the county executive committee shall set the hour for convening or a time frame in which the conventions must convene.

SECTION 36. Section 174.023, Election Code, is amended to read as follows:

Sec. 174.023. NOTICE OF DATE, HOUR, AND PLACE. (a) The county chair shall post a notice of the date, hour, and place for convening each precinct convention on the bulletin board used for posting notice of meetings of the commissioners court. The notice must remain posted continuously for the 10 days immediately preceding the date of the convention.

(b) Not later than the 10th day before the date of the precinct conventions, the county chair shall deliver to the county clerk written notice of the date, hour, and place for convening each precinct convention.

(c) If the county chair fails to post or deliver notice in accordance with this section, another member of the county executive committee may post or deliver the notice.

SECTION 37. Section 213.013(i), Election Code, is amended to read as follows:

(i) No device capable [~~mechanical or electronic means~~] of recording images or sound is [~~are~~] allowed inside the room in which the recount is conducted, or in any hallway or corridor in the building in which the recount is conducted within 30 feet of the entrance to the room, while the recount is in progress unless the person entitled to be present at the recount agrees to disable or deactivate the device. However, on request of a person entitled to appoint watchers to serve at the recount, the recount committee chair shall permit the person to photocopy under the chair's supervision any ballot, including any supporting materials, challenged by the person or person's watcher. The person must pay a reasonable charge for making the copies and, if no photocopying equipment is available, may supply that equipment at the person's expense. The person shall provide a copy on request to another person entitled to appoint watchers to serve at the recount.

SECTION 38. Section 216.002, Election Code, is amended to read as follows:

Sec. 216.002. CONDUCT OF AUTOMATIC RECOUNT GENERALLY. Except as otherwise provided by this chapter, this title, including the notice requirement of Section 213.009, applies to a recount conducted under this chapter with appropriate modifications as prescribed by the secretary of state.

SECTION 39. Section 232.008(c), Election Code, is amended to read as follows:

(c) A contestant must file the petition not later than the 10th day after the date the official result is determined in a contest of:

(1) a primary or runoff primary election; or

(2) a general or special election for which a runoff is necessary according to the official result or will be necessary if the contestant prevails.

SECTION 40. Section 253.167, Election Code, is amended to read as follows:

Sec. 253.167. CERTIFICATION OF POPULATION; NOTICE OF CONTRIBUTION AND EXPENDITURE LIMITS. (a) For purposes of this subchapter only, not later than June 1 of each odd-numbered year, the commission ~~[secretary of state]~~ shall:

(1) ~~make [deliver to the commission]~~ a written certification of the population of each judicial district for which a candidate for judge or justice must file a campaign treasurer appointment with the commission; and

(2) deliver to the county clerk of each county a written certification of the county's population, if the county:

(A) comprises an entire judicial district under Chapter 26, Government Code; or

(B) has a statutory county court or statutory probate court, other than a multicounty statutory county court created under Subchapter D, Chapter 25, Government Code.

(b) Following ~~[On receipt of the]~~ certification of population under Subsection (a), the commission or county clerk, as appropriate, shall make available to each candidate for an office covered by this subchapter written notice of the contribution and expenditure limits applicable to the office the candidate seeks.

SECTION 41. Section 501.001, Election Code, is amended by adding Subdivision (4) to read as follows:

(4) "Political subdivision" includes a justice precinct.

SECTION 42. Section 501.023(a), Election Code, is amended to read as follows:

(a) If 10 or more qualified voters of any county, justice precinct, or municipality file a written application and provide proof of publication of notice in a newspaper of general circulation in that political subdivision, the county clerk of the county shall issue to the applicants a petition to be circulated among the qualified voters of the political subdivision for the signatures of those qualified voters who desire that a local option election be called for the purpose of determining whether the sale of alcoholic beverages of one or more of the various types and alcoholic contents shall be prohibited or legalized in the political subdivision. The notice must include:

(1) the individual or entity that is applying for the petition to gather signatures for a local option liquor election;

(2) the type of local option liquor election;

(3) the name of the political subdivision in which the petition will be circulated; and

(4) the name and title of the person with whom the application will be filed.

SECTION 43. Section 501.108(a), Election Code, is amended to read as follows:

(a) If a county is not required to pay the initial expense, regardless of any authority to receive reimbursement, of a local option election under Section 501.107, the county clerk shall require the applicants for a petition for a local option election to make a deposit before the issuance of the petition.

SECTION 44. Sections 18.041, 18.042, and 145.092(c), Election Code, are repealed.

SECTION 45. This Act takes effect September 1, 2011.

Representative L. Taylor moved to adopt the conference committee report on **HB 2817**.

The motion to adopt the conference committee report on **HB 2817** prevailed by (Record 1697): 123 Yeas, 25 Nays, 1 Present, not voting.

Yeas — Aliseda; Allen; Alvarado; 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.; Deshotel; Driver; Eiland; Eissler; Elkins; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; 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; Margo; Martinez; McClendon; Miles; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Raymond; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Villarreal; Vo; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Alonzo; Anchia; Burnam; Castro; Coleman; Davis, Y.; Dukes; Dutton; Farias; Farrar; Gonzales, V.; Gonzalez; Gutierrez; Howard, D.; Johnson; Mallory Caraway; Marquez; Martinez Fischer; Muñoz; Naishtat; Quintanilla; Reynolds; Simpson; Veasey; Walle.

Present, not voting — Mr. Speaker(C).

Absent — Menendez.

SB 516 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Fletcher submitted the conference committee report on **SB 516**.

Representative Fletcher moved to adopt the conference committee report on **SB 516**.

The motion to adopt the conference committee report on **SB 516** prevailed by (Record 1698): 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.; 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; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; 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); McClendon.

Absent — Raymond.

HB 414 - CO-AUTHORS AUTHORIZED

On motion of Representative Aycock, Representatives Hardcastle and S. Miller were authorized as co-authors to **HB 414**.

HB 414 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Aycock submitted the following conference committee report on **HB 414**:

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 414** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Seliger	Aycock
Hegar	S. Miller
Estes	D. Howard
Jackson	Landtroop
Hinojosa	Geren
On the part of the senate	On the part of the house

HB 414, A bill to be entitled An Act relating to the regulation of equine dentistry and the conducting of licensing examinations by the State Board of Veterinary Medical Examiners.

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

SECTION 1. Section 801.002, Occupations Code, is amended by adding Subdivisions (3-a) and (4-a) to read as follows:

(3-a) "Equine dentistry" means any diagnosis, treatment, or surgical procedure performed on the head or oral cavity of an equine animal. The term includes:

(A) any procedure that invades the tissues of the oral cavity, including a procedure to:

(i) remove sharp enamel projections;

(ii) treat malocclusions of the teeth;

(iii) reshape teeth; and

(iv) extract one or more teeth;

(B) the treatment or extraction of damaged or diseased teeth;

(C) the treatment of diseased teeth through restoration and endodontic procedures;

(D) periodontal treatments, including:

(i) the removal of calculus, soft deposits, plaque, and stains above the gum line; and

(ii) the smoothing, filing, and polishing of tooth surfaces; and

(E) dental radiography.

(4-a) "Licensed equine dental provider" means a person who holds a license to practice equine dentistry issued under this chapter.

SECTION 2. Section 801.151, Occupations Code, is amended by amending Subsection (c) and adding Subsections (e) and (f) to read as follows:

(c) The board shall adopt rules to:

(1) protect the public; ~~and~~

(2) ensure that alternate therapies, including ultrasound diagnosis and therapy, magnetic field therapy, holistic medicine, homeopathy, chiropractic treatment, acupuncture, and laser therapy, are performed only by a veterinarian or under the supervision of a veterinarian; and

(3) ensure that equine dentistry is performed only by a veterinarian who is active and in good standing or by a licensed equine dental provider who is active and in good standing under the appropriate level of supervision of a veterinarian who is active and in good standing and who has established a veterinarian-client-patient relationship with the owner or other caretaker of an animal in accordance with Section 801.351.

(e) The board shall adopt rules to implement a jurisprudence examination for licensed equine dental providers, including rules relating to the development and administration of the examination, examination fees, guidelines for reexamination, examination grading, and provision of notice of examination results.

(f) The board may not adopt rules that unreasonably restrict the selection by the owner or other caretaker of an animal of a licensed equine dental provider who is in good standing to provide equine dental services.

SECTION 3. Sections 801.154(b) and (d), Occupations Code, are amended to read as follows:

(b) The veterinarian license renewal fee set by the board under this chapter is the amount set by the board under Subsection (a) and an additional fee of \$200.

(d) The additional fee under Subsection (b) does not apply to a veterinarian [~~license holder~~] who is:

- (1) exempt from paying the renewal fee under Section 801.304; or
- (2) placed on inactive status as provided by Section 801.306.

SECTION 4. Section 801.156, Occupations Code, is amended to read as follows:

Sec. 801.156. REGISTRY. (a) The board shall maintain a record of each license holder's [~~veterinarian's~~]:

- (1) name;
- (2) residence address; and
- (3) business address.

(b) A license holder [~~veterinarian~~] shall notify the board of a change of business address or employer not later than the 60th day after the date the change takes effect.

SECTION 5. Section 801.203(b), Occupations Code, is amended to read as follows:

(b) The board shall list with its regular telephone number any toll-free telephone number established under other state law for presenting a complaint about a license holder [~~veterinarian~~].

SECTION 6. Section 801.2056(b), Occupations Code, is amended to read as follows:

(b) A complaint delegated under this section shall be referred for informal proceedings under Section 801.408 if:

- (1) the committee determines that the complaint should not be dismissed or settled;
- (2) the committee is unable to reach an agreed settlement; or
- (3) the license holder [~~veterinarian~~] who is the subject of the complaint requests that the complaint be referred for informal proceedings.

SECTION 7. Sections 801.251 and 801.252, Occupations Code, are amended to read as follows:

Sec. 801.251. LICENSE REQUIRED FOR PRACTICE OF VETERINARY MEDICINE. Except as provided by Section 801.004, a person may not practice, or offer or attempt to practice, veterinary medicine unless the person holds a license to practice veterinary medicine issued under this chapter.

Sec. 801.252. ELIGIBILITY REQUIREMENTS FOR LICENSE TO PRACTICE VETERINARY MEDICINE. The board shall issue a license to practice veterinary medicine to a person who is qualified to be licensed to practice veterinary medicine under this chapter. A person is qualified to be licensed to practice veterinary medicine if:

- (1) the person has attained the age of majority;
- (2) the person is a graduate of a board-approved school or college of veterinary medicine;
- (3) the person successfully completes the licensing examination for veterinarians conducted by the board; and
- (4) the board does not refuse to issue a license to the person under Section 801.401.

SECTION 8. The heading to Section 801.253, Occupations Code, is amended to read as follows:

Sec. 801.253. LICENSING EXAMINATIONS FOR VETERINARIANS.

SECTION 9. Section 801.253(a), Occupations Code, is amended to read as follows:

(a) The board shall ~~[hold a regular meeting at least twice each year to]~~ conduct licensing examinations for veterinarians as provided by board rule. The board shall conduct the examination at a time and place the board determines is convenient for applicants.

SECTION 10. The heading to Section 801.256, Occupations Code, is amended to read as follows:

Sec. 801.256. SPECIAL LICENSE TO PRACTICE VETERINARY MEDICINE.

SECTION 11. Section 801.256(a), Occupations Code, is amended to read as follows:

(a) The board may issue a special license to practice veterinary medicine to an applicant who is:

(1) a member of the faculty or staff of a board-approved veterinary program at an institution of higher education;

(2) a veterinarian employee of the Texas Animal Health Commission;

(3) a veterinarian employee of the Texas Veterinary Medical Diagnostic Laboratory; or

(4) a person licensed to practice veterinary medicine in another jurisdiction, if the board determines that the person's specialty practice is unrepresented or underrepresented in this state.

SECTION 12. The heading to Section 801.257, Occupations Code, is amended to read as follows:

Sec. 801.257. PROVISIONAL LICENSE TO PRACTICE VETERINARY MEDICINE.

SECTION 13. Section 801.257(a), Occupations Code, is amended to read as follows:

(a) The board may grant a provisional license to practice veterinary medicine to an applicant who presents proof that the applicant:

(1) is licensed in good standing as a veterinarian in another state that:

(A) has licensing requirements substantially equivalent to the requirements of this chapter; and

(B) maintains professional standards the board considers equivalent to the professional standards of this chapter; and

(2) has passed a national or other examination recognized by the board relating to veterinary medicine.

SECTION 14. Section 801.258, Occupations Code, is amended to read as follows:

Sec. 801.258. TEMPORARY LICENSE TO PRACTICE VETERINARY MEDICINE. The board by rule may provide for the issuance of a temporary license to practice veterinary medicine.

SECTION 15. Subchapter F, Chapter 801, Occupations Code, is amended by adding Sections 801.259, 801.260, 801.261, 801.262, 801.263, and 801.264 to read as follows:

Sec. 801.259. LICENSED EQUINE DENTAL PROVIDER DESIGNATIONS. (a) A person may not represent to the public that the person is authorized to perform equine dentistry or use the titles "dentist," "certified equine dental provider," "equine dental provider," "CEDP," or "EDP" unless specifically authorized by Subsection (b).

(b) Only a licensed equine dental provider who is certified in accordance with Section 801.261(a)(3) may use the title "certified equine dental provider" or the designation "CEDP." Only a licensed equine dental provider who is licensed before September 1, 2013, and who is not certified in accordance with Section 801.261(a)(3) may use the title "equine dental provider" or the designation "EDP."

Sec. 801.260. LICENSE REQUIRED FOR EQUINE DENTISTRY. A person may not perform equine dentistry or offer or attempt to act as an equine dental provider unless the person is:

- (1) a veterinarian who is active and in good standing; or
- (2) a licensed equine dental provider who is active and in good standing performing under the supervision of a veterinarian who is active and in good standing.

Sec. 801.261. LICENSED EQUINE DENTAL PROVIDER: APPLICATION, QUALIFICATIONS, AND ISSUANCE. (a) The board shall issue an equine dental provider license to a person who is qualified under this section. A person is qualified to be licensed as an equine dental provider if the person:

- (1) passes a jurisprudence examination conducted by the board in accordance with Section 801.264;
- (2) is not disqualified under this chapter or board rule; and
- (3) is certified by the International Association of Equine Dentistry or another board-approved certification entity or organization.

(b) An applicant for an equine dental provider license must submit to the board:

- (1) an application on the form prescribed by the board;
- (2) information to enable the board to conduct a criminal background check as required by the board; and
- (3) any other information required by the board.

Sec. 801.262. SCOPE OF PRACTICE OF LICENSED EQUINE DENTAL PROVIDER. (a) A licensed equine dental provider may not perform equine dentistry unless the provider is active and in good standing and performs equine dentistry under the general supervision of a veterinarian who is active and in good standing.

(b) A licensed equine dental provider may perform only the following equine dental procedures:

- (1) removing sharp enamel points;
- (2) removing small dental overgrowths;

- (3) rostral profiling of the first cheek teeth;
- (4) reducing incisors;
- (5) extracting loose, deciduous teeth;
- (6) removing supragingival calculus;
- (7) extracting loose, mobile, or diseased teeth or dental fragments with minimal periodontal attachments by hand and without the use of an elevator; and
- (8) removing erupted, non-displaced wolf teeth.

(c) Subsection (b) may not be construed to prohibit an employee of a veterinarian who is not a licensed equine dental provider from performing the equine dental procedures described in Subsection (b) if the employee is under the direct supervision of a veterinarian.

(d) A copy of the dental chart of an equine animal is to be left with the person who authorizes an equine dental procedure and is to be made available to the supervising veterinarian upon request.

Sec. 801.263. LICENSED EQUINE DENTAL PROVIDER RESPONSIBILITY. A licensed equine dental provider shall be held to the same standard of care as a veterinarian when the provider performs the equine dental procedures described in Section 801.262(b).

Sec. 801.264. JURISPRUDENCE EXAMINATION. The board shall develop and administer a jurisprudence examination for licensed equine dental providers to determine an applicant's knowledge of this chapter, board rules, and any other applicable laws of this state affecting the applicant's equine dentistry practice.

SECTION 16. Sections 801.303(b) and (c), Occupations Code, are amended to read as follows:

(b) A person whose license has been expired for 90 days or less may renew the license by paying to the board a renewal fee that is equal to the sum of 1-1/2 times the renewal fee set by the board under Section 801.154(a) and the additional fee required by Section 801.154(b), if applicable.

(c) A person whose license has been expired for more than 90 days but less than one year may renew the license by paying to the board a renewal fee that is equal to the sum of two times the renewal fee set by the board under Section 801.154(a) and the additional fee required by Section 801.154(b), if applicable.

SECTION 17. Section 801.304, Occupations Code, is amended to read as follows:

Sec. 801.304. FEE EXEMPTION. A veterinarian [~~license holder~~] is exempt from the fee requirements imposed under Section 801.303 if the veterinarian [~~license holder~~]:

(1) is on active duty with the Armed Forces of the United States and does not engage in private or civilian practice; or

(2) is permanently and totally retired.

SECTION 18. Section 801.305(a), Occupations Code, is amended to read as follows:

(a) A person who was licensed to practice veterinary medicine in this state, moved to another state, and is currently licensed in good standing and has been in practice in the other state for the two years preceding the date of application may obtain a new license to practice veterinary medicine without reexamination.

SECTION 19. Section 801.306, Occupations Code, is amended to read as follows:

Sec. 801.306. INACTIVE STATUS. The board by rule may provide for the placement of a license holder [~~veterinarian~~] on inactive status. The rules adopted under this section must include a limit on the time a license holder [~~veterinarian~~] may remain on inactive status.

SECTION 20. Sections 801.307(a) and (b), Occupations Code, are amended to read as follows:

(a) The board by rule shall establish a minimum number of hours of continuing education required to renew a license to practice veterinary medicine. The board shall require six hours of continuing education annually to renew an equine dental provider license.

(b) The board may:

(1) establish general categories of continuing education that meet the needs of license holders [~~veterinarians~~]; and

(2) require a license holder [~~veterinarian~~] to successfully complete continuing education courses.

SECTION 21. Sections 801.352(b) and (c), Occupations Code, are amended to read as follows:

(b) A veterinarian may not:

(1) allow a person who does not hold a license to practice veterinary medicine issued under this chapter to interfere with or intervene in the veterinarian's practice of veterinary medicine; or

(2) submit to interference or intervention by a person who does not hold a license to practice veterinary medicine issued under this chapter.

(c) A veterinarian shall avoid a relationship that may result in interference with or intervention in the veterinarian's practice of veterinary medicine by a person who does not hold a license to practice veterinary medicine issued under this chapter.

SECTION 22. Section 801.3541, Occupations Code, is amended to read as follows:

Sec. 801.3541. LOCATION OF VETERINARY PRACTICE. The premises on which a veterinary practice is located may be owned by a person or other legal entity that does not hold a license to practice veterinary medicine issued under this chapter.

SECTION 23. Sections 801.402, 801.403, and 801.404, Occupations Code, are amended to read as follows:

Sec. 801.402. GENERAL GROUNDS FOR LICENSE DENIAL OR DISCIPLINARY ACTION. A person is subject to denial of a license or to disciplinary action under Section 801.401 if the person:

(1) presents to the board dishonest or fraudulent evidence of the person's qualifications;

(2) commits fraud or deception in the examination process or to obtain a license;

(3) is chronically or habitually intoxicated, chemically dependent, or addicted to drugs;

(4) engages in dishonest or illegal practices in, or connected with, the practice of veterinary medicine or the practice of equine dentistry;

(5) is convicted of a felony under the laws of this state, another state, or the United States;

(6) engages in practices or conduct that violates the board's rules of professional conduct;

(7) permits another to use the person's license to practice veterinary medicine or to practice equine dentistry in this state;

(8) fraudulently issues a health certificate, vaccination certificate, test chart, or other form used in the practice of veterinary medicine or the practice of equine dentistry that relates to the presence or absence of animal disease;

(9) issues a false certificate relating to the sale for human consumption of inedible animal products;

(10) commits fraud in connection with the application or reporting of a test of animal disease;

(11) pays or receives a kickback, rebate, bonus, or other remuneration for treating an animal or for referring a client to another provider of veterinary or equine dental services or goods;

(12) performs or prescribes unnecessary or unauthorized treatment;

(13) orders a prescription drug or controlled substance for the treatment of an animal without first establishing a veterinarian-client-patient relationship;

(14) refuses to admit a board representative to inspect the person's client and patient records and business premises during regular business hours;

(15) fails to keep the person's equipment and business premises in a sanitary condition;

(16) commits gross malpractice or a pattern of acts that indicate consistent malpractice, negligence, or incompetence in the practice of veterinary medicine or the practice of equine dentistry; or

(17) is subject to disciplinary action in another jurisdiction, including the suspension, probation, or revocation of a license to practice veterinary medicine or to practice equine dentistry issued by another jurisdiction.

Sec. 801.403. FAILURE TO REPORT DISEASE. The board may suspend or revoke a license to practice veterinary medicine, place a veterinarian ~~[license holder]~~ on probation, or reprimand a veterinarian ~~[license holder]~~ if the veterinarian ~~[license holder]~~ knowingly fails to report a disease to the Texas Animal Health Commission as required by Section 161.101, Agriculture Code.

Sec. 801.404. FAILURE TO MAINTAIN RECORDS. The board may suspend or revoke a license to practice veterinary medicine issued under this chapter or place on probation a veterinarian ~~[license holder]~~ if the veterinarian ~~[license holder]~~ fails to maintain records as required by Section 801.359.

SECTION 24. Section 801.502(a), Occupations Code, is amended to read as follows:

(a) The board, through the attorney general or a district or county attorney, may bring an action for an injunction, or a proceeding incident to an injunction, to:

- (1) enforce this chapter; or
- (2) enjoin a person, including a corporation, organization, business trust, estate, trust, partnership, association, or other legal entity, from practicing veterinary medicine or equine dentistry in violation of this chapter.

SECTION 25. Sections 801.506(a) and (b), Occupations Code, are amended to read as follows:

(a) A sole proprietorship, partnership, or corporation may not engage in veterinary medicine unless the owner, each partner, or each shareholder, as appropriate, holds a license to practice veterinary medicine issued under this chapter.

(b) A corporation, organization, business trust, estate, trust, partnership, association, or other legal entity not owned exclusively by one or more persons licensed to practice veterinary medicine under this chapter may not engage in veterinary medicine.

SECTION 26. Section 801.508(a), Occupations Code, is amended to read as follows:

(a) If it appears to the board that a person is engaging in an act or practice that constitutes the practice of veterinary medicine without a license or the practice of equine dentistry without a license under this chapter, the board, after notice and opportunity for a hearing, may issue a cease and desist order prohibiting the person from engaging in the activity.

SECTION 27. Chapter 801, Occupations Code, is amended by adding Subchapter L to read as follows:

SUBCHAPTER L. EQUINE DENTAL PROVIDER ADVISORY COMMITTEE

Sec. 801.551. EQUINE DENTAL PROVIDER ADVISORY COMMITTEE. (a) The equine dental provider advisory committee is an informal advisory committee to the board and is not subject to Chapter 2110, Government Code.

(b) The advisory committee does not have any independent rulemaking authority but shall advise and assist the board in adopting rules relating to licensed equine dental providers.

(c) The board shall consult the advisory committee regarding matters relating to a disciplinary action that involves a licensed equine dental provider.

Sec. 801.552. APPOINTMENT OF ADVISORY COMMITTEE. (a) The equine dental provider advisory committee is composed of three members appointed by the presiding officer of the board as follows:

(1) two members who are licensed equine dental providers, have resided in and engaged in the practice of smoothing or filing teeth by floating in this state for the five years immediately preceding the date of appointment, and are of good repute; and

(2) one veterinarian member who is active and in good standing and who supervises a licensed equine dental provider.

(b) Notwithstanding Subsection (a)(1), the advisory committee members appointed under Subsection (a)(1) are not required to hold a license to practice equine dentistry issued under this chapter until September 1, 2012. This subsection expires September 1, 2013.

(c) Appointments to the advisory committee shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

Sec. 801.553. TERMS; VACANCY. (a) Members of the equine dental provider advisory committee are appointed for staggered six-year terms. The terms of the members expire on February 1 of each odd-numbered year.

(b) If a vacancy occurs during a member's term, the presiding officer of the board shall appoint a new member to fill the unexpired term.

(c) An advisory committee member may not serve more than two consecutive full terms.

Sec. 801.554. GROUNDS FOR REMOVAL. (a) It is a ground for removal from the equine dental provider advisory committee that a member:

(1) does not have at the time of appointment the qualifications required by Section 801.552;

(2) does not maintain during service on the advisory committee the qualifications required by Section 801.552; and

(3) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term.

(b) The validity of an action of the advisory committee is not affected by the fact that it is taken when a ground for removal of an advisory committee member exists.

Sec. 801.555. OFFICERS. The presiding officer of the board shall designate biennially an equine dental provider advisory committee member as the presiding officer of the advisory committee to serve in that capacity at the will of the presiding officer of the board.

Sec. 801.556. REIMBURSEMENT; COMPENSATION. An equine dental provider advisory committee member is not entitled to reimbursement for travel expenses or compensation.

Sec. 801.557. MEETINGS. (a) The equine dental provider advisory committee shall meet at the call of the presiding officer of the board.

(b) A meeting may be held by telephone conference call.

SECTION 28. Subchapter F, Chapter 411, Government Code, is amended by adding Section 411.0995 to read as follows:

Sec. 411.0995. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: STATE BOARD OF VETERINARY MEDICAL EXAMINERS. The State Board of Veterinary Medical Examiners is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is:

(1) an applicant for a license to practice equine dentistry under Chapter 801, Occupations Code; or

(2) the holder of a license under that chapter.

SECTION 29. (a) Not later than October 1, 2011, the presiding officer of the State Board of Veterinary Medical Examiners shall appoint the initial members of the equine dental provider advisory committee established under Subchapter L, Chapter 801, Occupations Code, as added by this Act, with the term of one member expiring February 1, 2013, the term of one member expiring February 1, 2015, and the term of one member expiring February 1, 2017.

(b) Not later than June 1, 2012, the State Board of Veterinary Medical Examiners, in consultation with the equine dental provider advisory committee established under Subchapter L, Chapter 801, Occupations Code, as added by this Act, shall adopt the rules, procedures, and jurisprudence examination required to implement the licensure of equine dental providers under Chapter 801, Occupations Code, as amended by this Act.

(c) Notwithstanding Section 801.260, Occupations Code, as added by this Act, a person employed as an equine dental provider is not required to hold a license under Chapter 801, Occupations Code, and is not subject to the imposition of a penalty for not holding a license under that chapter before September 1, 2012.

SECTION 30. (a) Before September 1, 2012, the State Board of Veterinary Medical Examiners shall issue an equine dental provider license required by Section 801.260, Occupations Code, as added by this Act, to a person who is not certified by the International Association of Equine Dentistry or another board-approved entity or organization if the person:

(1) presents proof of graduation from and completion of 280 hours of course work at a board-approved equine dental school or another board-approved entity or organization; and

(2) submits, with the application and other information required under Section 801.261(b), Occupations Code, as added by this Act, two notarized affidavits in which veterinarians who are licensed to practice in this state and are in good standing with the board state that they know the person and that the person is competent in the practice of smoothing or filing teeth by floating.

(b) A license issued under this section may be renewed in the same manner as a license issued to a person under Section 801.261, Occupations Code, as added by this Act.

(c) The State Board of Veterinary Medical Examiners may waive the requirement of Subsection (a)(1) if an applicant demonstrates proficiency by submitting:

(1) financial records that show the applicant has earned the majority of the applicant's income for the two years preceding the effective date of this Act by performing equine dental services; or

(2) sworn affidavits from at least two clients who certify that the applicant has performed satisfactorily in addressing the dental needs of the client's animal.

(d) This section expires September 1, 2012.

SECTION 31. This Act takes effect September 1, 2011.

Representative Aycock moved to adopt the conference committee report on **HB 414**.

The motion to adopt the conference committee report on **HB 414** prevailed by (Record 1699): 140 Yeas, 4 Nays, 1 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Berman; Bohac; Bonnen; Branch; Brown; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; 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.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; 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; 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; Zerwas.

Nays — Beck; King, S.; Schwertner; Zedler.

Present, not voting — Mr. Speaker(C).

Absent — Aycock; Burkett; Elkins; King, T.; Lucio.

STATEMENT OF VOTE

I was shown voting yes on Record No. 1699. I intended to vote no.

Larson

HB 2380 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Shelton submitted the following conference committee report on **HB 2380**:

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 2380** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Shapiro
Nelson
Carona
Patrick

Shelton
Patrick
Reynolds
Frullo

Seliger

On the part of the senate

Villarreal

On the part of the house

HB 2380, A bill to be entitled An Act relating to employment by school districts of certain persons under probationary contracts.

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

SECTION 1. Section 21.102, Education Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) A person who voluntarily accepts an assignment in a new professional capacity that requires a different class of certificate under Subchapter B than the class of certificate held by the person in the professional capacity in which the person was previously employed may be employed under a probationary contract. This subsection does not apply to a person who is returned by a school district to a professional capacity in which the person was employed by the district before the district employed the person in the new professional capacity as described by this subsection. A person described by this subsection who is returned to a previous professional capacity is entitled to be employed in the original professional capacity under the same contractual status as the status held by the person during the previous employment by the district in that capacity.

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 Shelton moved to adopt the conference committee report on **HB 2380**.

The motion to adopt the conference committee report on **HB 2380** prevailed by (Record 1700): 144 Yeas, 2 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; 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; 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; 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; Simpson.

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

Absent — Anchia; Dutton.

HB 3246 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Elkins submitted the following conference committee report on **HB 3246**:

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 3246** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

West

Nichols

Shapiro

Watson

Wentworth

On the part of the senate

Elkins

Jackson

T. King

D. Miller

Paxton

On the part of the house

HB 3246, A bill to be entitled An Act relating to public improvement districts designated by a municipality or county.

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

SECTION 1. Section 372.0015, Local Government Code, is amended to read as follows:

Sec. 372.0015. DEFINITIONS [~~DEFINITION~~]. In this subchapter:

(1) "Costs" means costs and expenses paid or incurred before, during, or after the establishment of a public improvement district and in connection with or related to the undertaking and funding of a public improvement project authorized under this subchapter.

(2) "Extraterritorial" [~~extraterritorial~~] jurisdiction" means extraterritorial jurisdiction as determined under Chapter 42.

SECTION 2. Subchapter A, Chapter 372, Local Government Code, is amended by adding Section 372.0025 to read as follows:

Sec. 372.0025. PUBLIC IMPROVEMENT DISTRICT. A public improvement district is an area, the boundaries of which are designated by the governing body of a municipality or county under this subchapter, that may include two or more noncontiguous areas separated by:

(1) a right-of-way or other land dedicated to or owned, leased, or used by a political subdivision or other governmental entity, tax-exempt entity, public or private utility, or railroad; or

(2) not more than 1,000 feet, as measured in a straight line, between the nearest points on the property lines of the closest situated noncontiguous areas.

SECTION 3. Sections 372.003(b) and (c), Local Government Code, are amended to read as follows:

(b) A public improvement project may include:

- (1) landscaping;
- (2) erection of fountains, distinctive lighting, and signs;
- (3) acquiring, constructing, improving, widening, narrowing, closing, or rerouting of sidewalks or of streets, any other roadways, or their rights-of-way;
- (4) construction or improvement of pedestrian malls;
- (5) acquisition and installation of pieces of art;
- (6) acquisition, construction, or improvement of libraries;
- (7) acquisition, construction, or improvement of off-street parking facilities;
- (8) acquisition, construction, improvement, or rerouting of mass transportation facilities;
- (9) acquisition, construction, or improvement of water, wastewater, or drainage facilities or improvements;
- (10) the establishment or improvement of parks and recreation facilities;
- (11) facilities or equipment for firefighters, police, sheriffs, and emergency service providers;
- (12) the right to receive or provide utility services;
- (13) projects similar to those listed in Subdivisions (1)-(12) [(1)-(10)];
- (14) [(12)] acquisition, by purchase or otherwise, of real property in connection with an authorized improvement;
- (15) [(13)] special supplemental services for improvement and promotion of the district, including services relating to:
 - (A) advertising;
 - (B) [(7)] promotion;
 - (C) [(7)] health and sanitation;
 - (D) [(7)] water and wastewater;
 - (E) firefighters, police, sheriffs, emergency service providers, and other public safety and [(7)] security personnel;
 - (F) [(7)] business recruitment;
 - (G) [(7)] development;
 - (H) [(7)] recreation; [(7)] and
 - (I) cultural enhancement;
- (16) [(14)] payment of expenses incurred in the establishment, administration, and operation of the district; and
- (17) [(15)] the development, rehabilitation, or expansion of affordable housing.

(c) A public improvement project may be limited to the provision of the services described by Subsection (b)(15) [(b)(13)].

SECTION 4. Subchapter A, Chapter 372, Local Government Code, is amended by adding Section 372.0035 to read as follows:

Sec. 372.0035. AUTHORIZED HIGHER EDUCATION FACILITIES; LEASE TO INSTITUTION OF HIGHER EDUCATION. (a) In this section, "institution of higher education" has the meaning assigned by Section 61.003, Education Code.

(b) A public improvement project under Section 372.003 may include the acquisition, construction, maintenance, or improvement of buildings and other facilities commonly used for:

(1) teaching, research, or the preservation of knowledge by an institution of higher education; or

(2) an auxiliary purpose of an institution of higher education, including the provision of administrative services, student services, student housing, athletics, performing arts, and alumni support.

(c) The governing body of a municipality or county that establishes a public improvement district to finance a public improvement project described by Subsection (b) may enter into a memorandum of understanding with an institution of higher education that provides educational services in the municipality or county under which the municipality or county leases the public improvement project to the institution, at a nominal rate, for use by the institution in providing teaching, research, public service, or auxiliary enterprise activities to students of the institution.

SECTION 5. Section 372.014, Local Government Code, is amended by adding Subsection (c) to read as follows:

(c) The assessment plan is intended to be flexible to provide for various development scenarios, including:

(1) assessments against all property to pay the costs of improvements that benefit all the property and additional assessments levied against portions of the property to pay the costs of improvements that benefit those portions of the property; or

(2) assessments levied to pay the costs for all improvements contemplated for all phases of development of the property with different payment and collection dates for the different phases determined by events established by the plan, including events related to the future phased development of the property.

SECTION 6. Section 372.015, Local Government Code, is amended by adding Subsections (e), (f), (g), and (h) to read as follows:

(e) The annual installment of an assessment payable in installments may be increased or decreased by the governing body of the municipality or county as reflected in the updated annual service plan and the corresponding updated assessment roll.

(f) If a parcel is subdivided, the assessment against the parcel before the parcel was subdivided may be reallocated among the subdivided parcels.

(g) If two or more parcels are consolidated, the assessments against each parcel may be reallocated to the consolidated parcel.

(h) If a proposed use of an undeveloped parcel changes after an assessment is levied against a parcel:

(1) the change in use does not affect the validity of the assessment against the parcel; and

(2) the aggregate amount of assessments levied against multiple undeveloped parcels for which the proposed use has changed may be reallocated among the undeveloped parcels.

SECTION 7. Subchapter A, Chapter 372, Local Government Code, is amended by adding Section 372.0175 to read as follows:

Sec. 372.0175. CONTRACTS FOR COLLECTION OF ASSESSMENTS.

The governing body of a municipality or county may contract with the governing body of another taxing unit, as defined by Section 1.04, Tax Code, or the board of directors of an appraisal district to perform the duties of the municipality or county relating to collection of special assessments levied under this subchapter.

SECTION 8. Section 372.018, Local Government Code, is amended by amending Subsections (a) and (f) and adding Subsection (g) to read as follows:

(a) An assessment bears interest at the rate specified by the governing body of the municipality or county beginning at the time or times or on the occurrence of one or more events specified by the governing body. If general obligation bonds, revenue bonds, installment sales contracts, reimbursement agreements, time warrants, or temporary notes are issued or entered into to finance or pay for the improvement for which the assessment is levied ~~[assessed]~~, the interest rate for the ~~[that]~~ assessment may not exceed a rate that is one-half of one percent higher than the actual interest rate paid on the debt. ~~[Interest on the assessment between the effective date of the ordinance or order levying the assessment and the date the first installment is payable shall be added to the first installment.]~~ The interest on any delinquent installment shall be added to each subsequent installment until all delinquent installments are paid. The added interest may be used to pay costs, including the payment or prepayment of the assessment, administrative costs, costs of improvements, and costs of financing such as reserves for debt service.

(f) Delinquent installments of the assessment shall incur interest, penalties, and attorney's fees in the same manner as delinquent ad valorem taxes.

(g) The owner of assessed property may pay at any time on any parcel or lot all or any part of the assessment, with interest that:

(1) has accrued on the assessment; and

(2) will accrue on the assessment until the next scheduled prepayment or redemption date on the general obligation bonds, revenue bonds, installment sales contract, reimbursement agreement, temporary note, or time warrant issued or entered into to finance or pay for the improvements ~~[-on any lot or parcel].~~

SECTION 9. Section 372.023, Local Government Code, is amended by amending Subsections (a), (d), (e), and (g) and adding Subsections (a-1) and (d-1) to read as follows:

(a) Costs of improvements may be paid or reimbursed by any combination of the methods described by this section if the improvements are dedicated, conveyed, leased, or otherwise provided to or for the benefit of:

(1) a municipality or county;

(2) a political subdivision or other entity exercising the powers granted under this subchapter as authorized by other law; or

(3) an entity that:

(A) is approved by the governing body of an entity described by Subdivision (1) or (2); and

(B) is authorized by order, ordinance, resolution, or other official action to act for an entity described by Subdivision (1) or (2) [The cost of an improvement made under this subchapter must be paid in accordance with this section].

(a-1) The payment or reimbursement may be provided before or after a method of payment or reimbursement authorized by this section is entered into or issued.

(d) Costs [A cost] payable from a special assessment that is payable [to be paid] in installments may be paid by any combination of the following methods [and a cost payable by the municipality or county as a whole but not payable from available general funds or other available general improvement funds shall be paid]:

(1) under an installment sales [sale] contract or a reimbursement agreement between the municipality or county and [with] the person who acquires, installs, or constructs the improvements [contracts to install or construct the improvement for which the costs apply];

(2) as provided by a temporary note or time warrant issued by the municipality or county and payable to the [reimburse a] person who acquires, installs, or constructs the improvements [for money advanced or work performed in connection with an improvement]; or

(3) by the issuance and sale of [revenue or general obligation] bonds under Section 372.024.

(d-1) An installment sales contract, reimbursement agreement, temporary note, or time warrant described by Subsection (d) may be assigned by the payee without the consent of the municipality or county.

(e) The [not effective] interest rate[, as computed for a public security under Section 1204.005, Government Code,] on unpaid amounts due under an installment sales contract, reimbursement agreement, temporary note, or time warrant described by [money owed or paid under] Subsection (d):

(1) may not exceed, for a period of not more than five years, as determined by the governing body of the municipality or county, five [one half of one] percent above the highest average index [interest] rate for tax-exempt bonds reported in a daily or [by a newspaper in a] weekly bond index approved by the governing body and reported in the month before the date the obligation was incurred; and

(2) after the period described by Subdivision (1), may not exceed two percent above the bond index rate described by Subdivision (1) [of the contract or agreement or the issuance of the bond, temporary note, or time warrant. The newspaper must specialize in bonds and be acceptable as a reliable source for

~~bond interest rates to the governing body of the municipality or county that enters into the contract or agreement or that issues the bond, temporary note, or time warrant].~~

(g) The cost of more than one improvement may be paid:

(1) from a single issue and sale of bonds without other consolidation proceedings before the bond issue; or

(2) under a single installment sales contract, reimbursement agreement, temporary note, or time warrant ~~[an agreement with a person who contracts to install or construct the improvement and who sells the improvement to the municipality or county].~~

SECTION 10. Section 372.024, Local Government Code, is amended to read as follows:

Sec. 372.024. GENERAL OBLIGATION AND REVENUE BONDS. (a) The governing body of a municipality or county may issue:

(1) general [General] obligation bonds ~~[issued to pay costs under Section 372.023(d) must be issued]~~ under ~~[the provisions of]~~ Subtitles A and C, Title 9, Government Code;

(2) certificates of obligation under Subchapter C, Chapter 271; and

(3) revenue [- Revenue] bonds, issued ~~[to pay costs under that subsection may be issued from time to time]~~ in one or more series ~~[and are to be payable from and secured by liens on all or part of the revenue derived from improvements authorized under this subchapter, including revenue derived from installment payments of special assessments].~~

(b) The bond or obligation may be:

(1) issued on the terms determined by the governing body of the municipality or county;

(2) issued to pay costs;

(3) issued to refund any obligation entered into or issued under this subchapter, including an installment sales contract, reimbursement agreement, temporary note, and time warrant; and

(4) payable from and secured by special assessments.

(c) If the bond or obligation is issued for the purpose described by Subsection (b)(3) and is secured wholly or partly by a special assessment, the lien created by the originally levied special assessment continues uninterrupted for the term of the bond or obligation to secure payment of the bond or obligation.

SECTION 11. Section 372.026, Local Government Code, is amended by adding Subsection (g) to read as follows:

(g) If an assessment is collected and applied to pay an amount due under an installment sales contract, reimbursement agreement, temporary note, or time warrant, the governing body of a municipality or county may pledge all or any part of the revenue collected to pay general obligation bonds, certificates of obligation, or revenue bonds issued to refund those obligations. The pledge authorized by this subsection:

(1) does not affect the lien of that assessment; and

(2) is not a reassessment or a new assessment.

SECTION 12. Section 372.023(f), Local Government Code, is repealed.

SECTION 13. 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 Elkins moved to adopt the conference committee report on **HB 3246**.

The motion to adopt the conference committee report on **HB 3246** prevailed by (Record 1701): 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; 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; 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.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Cain; Simpson.

Present, not voting — Mr. Speaker(C).

Absent — Gutierrez.

SB 316 - HOUSE DISCHARGES CONFEREES

Representative Gallego moved to discharge the conferees on **SB 316**.

The motion to discharge the conferees on **SB 316** prevailed by (Record 1702): 140 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; 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; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; 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; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pitts; Price; Quintanilla; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; 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 — Christian; Davis, J.; Guillen; Huberty; Marquez; Martinez Fischer; Pickett; Raymond; Sheffield.

STATEMENTS OF VOTE

When Record No. 1702 was taken, I was in the house but away from my desk. I would have voted yes.

Christian

When Record No. 1702 was taken, I was in the house but away from my desk. I would have voted yes.

Huberty

When Record No. 1702 was taken, I was in the house but away from my desk. I would have voted yes.

Martinez Fischer

SB 472 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Giddings submitted the conference committee report on **SB 472**.

Representative Giddings moved to adopt the conference committee report on **SB 472**.

The motion to adopt the conference committee report on **SB 472** prevailed by (Record 1703): 77 Yeas, 65 Nays, 1 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Berman; Burnam; Castro; Chisum; Coleman; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Flynn; Gallego; Garza; Geren; Giddings; Gonzales, V.; Gonzalez; Gutierrez; Hardcastle; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Howard, C.; Howard, D.; Hunter; Isaac; Jackson; Johnson; Keffer; King, T.; Kuempel; Lozano; Lucio; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Miles; Muñoz; Naishtat; Oliveira; Orr; Otto; Peña; Pitts; Quintanilla; Reynolds; Ritter; Rodriguez; Scott; Smith, T.; Smith, W.; Solomons; Strama; Taylor, V.; Thompson; Torres; Turner; Veasey; Villarreal; Vo; Walle; White; Workman.

Nays — Anderson, C.; Anderson, R.; Aycock; Beck; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Christian; Cook; Craddick; Creighton; Darby; Davis, J.; Davis, S.; Fletcher; Frullo; Gonzales, L.; Gooden; Hamilton; Hancock; Harless; Hopson; Huberty; Hughes; King, P.; King, S.; Kleinschmidt; Kolkhorst; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Madden; Margo; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Parker; Patrick; Paxton; Perry; Phillips; Price; Riddle; Schwertner; Sheets; Sheffield; Shelton; Simpson; Smithee; Taylor, L.; Truitt; Weber; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent — Bohac; Crownover; Guillen; Lyne; Menendez; Pickett; Raymond.

STATEMENTS OF VOTE

When Record No. 1703 was taken, I was in the house but away from my desk. I would have voted yes.

Bohac

When Record No. 1703 was taken, I was in the house but away from my desk. I would have voted no.

Crownover

I was shown voting yes on Record No. 1703. I intended to vote no.

Driver

I was shown voting yes on Record No. 1703. I intended to vote no.

Hilderbran

I was shown voting yes on Record No. 1703. I intended to vote no.

Hochberg

I was shown voting yes on Record No. 1703. I intended to vote no.

Hunter

I was shown voting no on Record No. 1703. I intended to vote yes.

Schwertner

I was shown voting yes on Record No. 1703. I intended to vote no.

T. Smith

I was shown voting yes on Record No. 1703. I intended to vote no.

V. Taylor

I was shown voting yes on Record No. 1703. I intended to vote no.

Torres

HB 3109 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Craddick submitted the following conference committee report on **HB 3109**:

Austin, Texas, May 28, 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 3109** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Seliger	Craddick
Duncan	Darby
Eltife	Lewis
Uresti	S. King
Hinojosa	Parker
On the part of the senate	On the part of the house

HB 3109, A bill to be entitled An Act relating to the rulemaking power of certain groundwater conservation districts.

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

SECTION 1. Section 36.121, Water Code, is amended to read as follows:

Sec. 36.121. LIMITATION ON RULEMAKING POWER OF DISTRICTS OVER WELLS IN CERTAIN COUNTIES. Except as provided by Section 36.117, a district that is created under this chapter on or after September 1, 1991, shall exempt from regulation under this chapter a well and any water produced or to be produced by a well that is located in a county that has a population of 14,000 or less if the water is to be used solely to supply a municipality that has a population of 121,000 or less and the rights to the water produced from the well are owned by a political subdivision that is not a municipality, or by a municipality that has a population of 115,000 [~~100,000~~] or less, and that purchased, owned, or held rights to the water before the date on which the district was created, regardless of the date the well is drilled or the water is produced. The district may not prohibit the political subdivision or municipality from transporting produced water inside or outside the district's boundaries.

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 Craddick moved to adopt the conference committee report on **HB 3109**.

The motion to adopt the conference committee report on **HB 3109** prevailed by (Record 1704): 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.

HR 2659 - ADOPTED
(by Ritter)

The following privileged resolution was laid before the house:

HR 2659

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 660** (review and functions of the Texas Water Development Board, including the functions of the board and related entities in connection with the process for establishing and appealing desired future conditions in a groundwater management area), to consider and take action on the following matters:

(1) House Rule 13, Sections 9(a)(1) and (4), are suspended to permit the committee to change text not in disagreement and to add text on a matter not included in either the house or senate version of the bill in proposed Section 17 of the bill, by adding Section 36.1083, Water Code, to read as follows:

Sec. 36.1083. APPEAL OF DESIRED FUTURE CONDITIONS. (a) In this section, "development board" means the Texas Water Development Board.

(b) ~~(4)~~ A person with a legally defined interest in the groundwater in the ~~[groundwater]~~ management area, a district in or adjacent to the ~~[groundwater]~~ management area, or a regional water planning group for a region in the ~~[groundwater]~~ management area may file a petition with the development board appealing the approval of the desired future conditions of the groundwater resources established under this section. The petition must provide evidence that the districts did not establish a reasonable desired future condition of the groundwater resources in the ~~[groundwater]~~ management area.

(c) ~~[(m)]~~ The development board shall review the petition and any evidence relevant to the petition. The development board shall hold at least one hearing at a central location in the management area to take testimony on the petition. The development board may delegate responsibility for a hearing to the executive administrator or to a person designated by the executive administrator. If the development board finds that the conditions require revision, the development board shall submit a report to the districts that includes a list of findings and recommended revisions to the desired future conditions of the groundwater resources.

(d) ~~[(n)]~~ The districts shall prepare a revised plan in accordance with development board recommendations and hold, after notice, at least one public hearing at a central location in the ~~[groundwater]~~ management area. After consideration of all public and development board comments, the districts shall revise the conditions and submit the conditions to the development board for review.

Explanation: This change is necessary to restore language in current law regarding the method for appealing desired future conditions that was bracketed out by the house and senate versions of the bill.

(2) House Rule 13, Section 9(a)(1), is suspended to permit the committee to change text not in disagreement in proposed Section 24 of the bill to read as follows:

SECTION 24. The requirement that a groundwater conservation district's management plan under Subsection (a), Section 36.1071, Water Code, as amended by this Act, include the desired future conditions adopted under Section 36.108, Water Code, as amended by this Act, for submission to the executive administrator of the Texas Water Development Board before the plan is considered administratively complete applies only to a district management plan submitted to the executive administrator on or after the effective date of this Act. A management plan submitted before the effective date of this Act is governed by the law in effect on the date the plan was submitted, and that law is continued in effect for that purpose.

Explanation: This change is necessary to correct an error in a cross-reference.

(3) House Rule 13, Section 9(a)(2), is suspended to permit the committee to omit text not in disagreement in Section 25 of the senate and house versions of the bill that reads as follows:

SECTION 25. A petition filed and pending on the effective date of this Act before the Texas Water Development Board to appeal the adoption of desired future conditions by a groundwater management area under former Subsection (l), Section 36.108, Water Code, shall be handled by the Texas Water Development Board in compliance with Subsections (l), (m), and (n), Section 36.108, Water Code, as those subsections existed before the effective date of this Act.

Explanation: This change is necessary to reflect the addition of Section 36.1083, Water Code, which restores language in current law that was bracketed out by the house and senate versions of the bill.

HR 2659 was adopted by (Record 1705): 145 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; Crownover; Darby; Davis, J.; Davis, S.; 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 — Creighton; Davis, Y.; Lyne; Martinez Fischer.

STATEMENT OF VOTE

When Record No. 1705 was taken, I was in the house but away from my desk. I would have voted yes.

Martinez Fischer

SB 660 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Ritter submitted the conference committee report on **SB 660**.

Representative Ritter moved to adopt the conference committee report on **SB 660**.

The motion to adopt the conference committee report on **SB 660** prevailed by (Record 1706): 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; 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; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent — Hochberg; Martinez.

STATEMENT OF VOTE

I was shown voting yes on Record No. 1706. I intended to vote no.

V. Taylor

HR 2697 - ADOPTED (by Rodriguez)

The following privileged resolution was laid before the house:

HR 2697

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 213** (certain loans secured by a lien on residential real property and other transactions involving residential real property; providing civil penalties) to consider and take action on the following matter:

House Rule 13, Section 9(a)(2), is suspended to permit the committee to omit text not in disagreement in SECTION 1 of the bill from added Chapter 397, Finance Code, that reads as follows:

Sec. 397.102. ACTION BY DEBTOR. In addition to any other legal and equitable remedy available, a debtor injured by a violation of this chapter may bring an action for recovery of actual damages, including reasonable attorney's fees.

Sec. 397.102. ACTION BY BORROWER. In addition to any other legal and equitable remedy available, a borrower injured by a violation of this chapter may bring an action:

...

(2) to recover:

(A) actual damages, including reasonable attorney's fees; . . .

Explanation: The omission of the text is necessary to remove the authorization of a private cause of action under added Chapter 397, Finance Code.

HR 2697 was adopted by (Record 1707): 146 Yeas, 3 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; 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; 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 — Creighton; Legler; Sheffield.

Present, not voting — Mr. Speaker(C).

HB 213 - MOTION TO ADOPT CONFERENCE COMMITTEE REPORT

Representative Rodriguez submitted the following conference committee report on **HB 213**:

Austin, Texas, May 28, 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 213** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Lucio

Carona

Estes

Eltife

Van de Putte

On the part of the senate

Rodriguez

Muñoz

Anchia

Keffer

Truitt

On the part of the house

HB 213, A bill to be entitled An Act relating to certain loans secured by a lien on residential real property and to other transactions involving residential real property; providing civil penalties.

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

SECTION 1. Title 5, Finance Code, is amended by adding Chapter 397 to read as follows:

CHAPTER 397. INFORMATION FURNISHED BY RESIDENTIAL
MORTGAGE SERVICERS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 397.001. DEFINITION. In this chapter, "mortgage servicer" has the meaning assigned by Section 51.0001, Property Code.

Sec. 397.002. APPLICABILITY. (a) This chapter applies only to a loan secured by a first or subordinate lien on residential real property that is not:

(1) a federally related mortgage loan, as defined by 12 U.S.C. Section 2602;

(2) a loan that is made by a credit union regulated by the Credit Union Department; or

(3) a loan that is primarily for business, commercial, or agricultural purposes, or for temporary financing, such as a construction loan, as referred to under 12 U.S.C. Section 2602.

(b) This chapter does not apply to a loan if the mortgage servicer is a natural person who is related to the borrower within the second degree by consanguinity or affinity, as determined under Subchapter B, Chapter 573, Government Code.

[Sections 397.003-397.050 reserved for expansion]

SUBCHAPTER B. BORROWER REQUESTS FOR INFORMATION

Sec. 397.051. RULES. The Finance Commission of Texas may adopt rules necessary to implement this subchapter.

Sec. 397.052. RECEIPTS FOR PAYMENTS BY BORROWERS. At the request of a borrower, a mortgage servicer shall provide a receipt to the borrower each time the mortgage servicer accepts payment from the borrower. The receipt must clearly and conspicuously state:

(1) the amount received by the mortgage servicer as payment toward the loan; and

(2) how the amount described by Subdivision (1) was applied to the borrower's account.

Sec. 397.053. ANNUAL ACCOUNTING STATEMENT. A mortgage servicer shall provide to the borrower an annual statement in January of each year for the term of the loan. The statement must clearly and conspicuously state the following information:

(1) the amount of each payment that was received by the mortgage servicer as payment toward the loan during the preceding calendar year;

(2) how each payment described by Subdivision (1) was applied to the borrower's account, including a statement of the amount of each payment that was applied to:

(A) the borrower's principal obligation under the loan;

(B) the interest charged on the loan;

(C) any escrow or suspense account associated with the loan; and

(D) any fee or other charge assessed against the borrower during the preceding calendar year; and

(3) the outstanding balance of the borrower's principal obligation under the loan.

Sec. 397.054. PAYOFF STATEMENTS. (a) In this section, "payoff statement" has the meaning assigned by Section 12.017, Property Code.

(b) Except as provided by Subsection (c) and subject to Subsection (d), a mortgage servicer may not charge a fee for preparing or transmitting a payoff statement to a borrower or other person requesting a payoff statement on behalf of the borrower.

(c) A mortgage servicer may charge a reasonable processing fee to cover the cost of providing a payoff statement by facsimile transmission or by a courier service if, before charging the fee, the mortgage servicer discloses to the requestor that payoff statements are available for free if the requestor requests that the statement be provided in a manner that will not result in the charging of a processing fee.

(d) After a mortgage servicer has provided two payoff statements during a calendar year to or on behalf of a borrower under Subsection (b) without charge, other than processing fees authorized under Subsection (c), the mortgage servicer may charge a reasonable fee for providing a payoff statement to or on behalf of the borrower during the remainder of the calendar year.

(e) A mortgage servicer shall provide a payoff statement not later than the 10th day after the date the lender receives the request for the payoff statement from or on behalf of a borrower, and the statement must be valid for a reasonable time after being provided to the requestor.

Sec. 397.055. PROVISION OF INFORMATION REGARDING DISPUTE OR ERROR. (a) A mortgage servicer shall provide a written statement to a borrower in response to a borrower's written request for information regarding a dispute or error involving the borrower's account that includes the following information, if requested:

(1) whether the account is current and an explanation of any default and the date the account went into default;

(2) the current balance due on the loan, including the principal due, the amount of any funds held in a suspense account, the amount of any escrow balance known to the servicer, and whether there are any escrow deficiencies or shortages known to the servicer;

(3) the identity, address, and other relevant information about the current holder, owner, or assignee of the loan; and

(4) the telephone number and mailing address of a servicer representative with the information and authority to answer questions and resolve disputes.

(b) A mortgage servicer must provide a statement under Subsection (a) on or before the 10th day after the date the servicer receives a written request from the borrower that:

(1) includes or otherwise enables the servicer to identify the name and account of the borrower; and

(2) includes a statement that the account is or may be in error or otherwise provides sufficient detail to the servicer regarding information sought by the borrower.

[Sections 397.056-397.100 reserved for expansion]

SUBCHAPTER C. REMEDIES

Sec. 397.101. ENFORCEMENT GENERALLY. The Department of Savings and Mortgage Lending, the attorney general, or any party to a loan to which this chapter applies may enforce this chapter.

Sec. 397.102. ACTION BY ATTORNEY GENERAL. (a) The attorney general may bring an action on behalf of the state:

- (1) for injunctive relief to require compliance with this chapter;
- (2) to recover a civil penalty of \$500 for each violation of this chapter;

or

- (3) for both injunctive relief and to recover the civil penalty.

(b) The attorney general is entitled to recover reasonable expenses incurred in obtaining injunctive relief or a civil penalty, or both, under this section, including court costs, reasonable attorney's fees, and investigatory costs.

(c) The court may make such additional orders or judgments as are necessary to compensate identifiable persons for actual damages or to restore money or property, real or personal, that may have been acquired by means of any violation of this chapter. Damages may not include any damages incurred beyond a point two years before the institution of the action by the attorney general. Orders of the court may also include the appointment of a receiver or a sequestration of assets if a person who has been ordered by a court to make restitution under this section has failed to do so within three months after the order to make restitution has become final and nonappealable.

(d) In bringing or participating in an action under this chapter, the attorney general acts in the name of the state and does not establish an attorney-client relationship with another person, including a person to whom the attorney general requests that the court award relief.

SECTION 2. Title 2, Business & Commerce Code, is amended by adding Chapter 21 to read as follows:

CHAPTER 21. EXECUTION OF DEEDS IN CERTAIN TRANSACTIONS INVOLVING RESIDENTIAL REAL ESTATE

Sec. 21.001. DEFINITION. In this chapter, "residential real estate" means real property on which a dwelling designed for occupancy for one to four families is constructed or intended to be constructed.

Sec. 21.002. PROHIBITION OF EXECUTION OF DEEDS CONVEYING RESIDENTIAL REAL ESTATE IN CERTAIN TRANSACTIONS. (a) A seller of residential real estate or a person who makes an extension of credit and takes a security interest or mortgage against residential real estate may not, before or at the time of the conveyance of the residential real estate to the purchaser or the extension of credit to the borrower, request or require the purchaser or borrower to execute and deliver to the seller or person making the extension of credit a deed conveying the residential real estate to the seller or person making the extension of credit.

(b) A deed executed in violation of this section is voidable unless a subsequent purchaser of the residential real estate, for valuable consideration, obtains an interest in the property after the deed was recorded without notice of the violation, including notice provided by actual possession of the property by the grantor of the deed. The residential real estate continues to be subject to the security interest of a creditor who, without notice of the violation, granted an extension of credit to a borrower based on the deed executed in violation of this section.

(c) A purchaser or borrower must bring an action to void a deed executed in violation of this section not later than the fourth anniversary of the date the deed was recorded. A purchaser or borrower who is a prevailing party in an action to void a deed under this section may recover reasonable and necessary attorney's fees.

Sec. 21.003. ACTION BY ATTORNEY GENERAL. (a) The attorney general may bring an action on behalf of the state:

- (1) for injunctive relief to require compliance with this chapter;
- (2) to recover a civil penalty of \$500 for each violation of this chapter;

or

- (3) for both injunctive relief and to recover the civil penalty.

(b) The attorney general is entitled to recover reasonable expenses incurred in obtaining injunctive relief or a civil penalty, or both, under this section, including court costs and reasonable attorney's fees.

(c) The court may make such additional orders or judgments as are necessary to return to the purchaser a deed conveying residential real estate that the court finds was acquired by means of any violation of this chapter.

(d) In bringing or participating in an action under this chapter, the attorney general acts in the name of the state and does not establish an attorney-client relationship with another person, including a person to whom the attorney general requests that the court award relief.

(e) An action by the attorney general must be brought not later than the fourth anniversary of the date the deed was recorded.

SECTION 3. Section 24.004, Property Code, is amended to read as follows:

Sec. 24.004. JURISDICTION; DISMISSAL. (a) Except as provided by Subsection (b), a [A] justice court in the precinct in which the real property is located has jurisdiction in eviction suits. Eviction suits include forcible entry and detainer and forcible detainer suits.

(b) A justice court does not have jurisdiction in a forcible entry and detainer or forcible detainer suit and shall dismiss the suit if the defendant files a sworn statement alleging the suit is based on a deed executed in violation of Chapter 21, Business & Commerce Code.

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

Representative Rodriguez moved to adopt the conference committee report on **HB 213**.

The motion to adopt the conference committee report on **HB 213** was lost by (Record 1708): 63 Yeas, 83 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Burnam; Castro; Christian; Coleman; Crownover; Davis, J.; Davis, Y.; Deshotel; Dukes; Dutton; Farias; Farrar; Gallego; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hardcastle; Hernandez Luna; Hochberg; Hopson; Howard, D.; Huberty; Isaac; Johnson; King, S.; King, T.; Kleinschmidt; Kolkhorst; Larson; Lozano; Lucio; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Muñoz; Naishtat; Oliveira; Pickett; Quintanilla; Raymond; Reynolds; Ritter; Rodriguez; Strama; Thompson; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Workman.

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

Present, not voting — Mr. Speaker(C).

Absent — Eiland; Hunter; Mallory Caraway.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1708. I intended to vote no.

C. Anderson

I was shown voting yes on Record No. 1708. I intended to vote no.

Christian

I was shown voting yes on Record No. 1708. I intended to vote no.

Huberty

When Record No. 1708 was taken, I was in the house but away from my desk. I would have voted no.

Hunter

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).

SB 89 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Rodriguez submitted the conference committee report on **SB 89**.

Representative Rodriguez moved to adopt the conference committee report on **SB 89**.

The motion to adopt the conference committee report on **SB 89** prevailed by (Record 1709): 121 Yeas, 25 Nays, 1 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Brown; Burkett; Burnam; Button; Carter; Castro; Christian; Coleman; Cook; Craddick; 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; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, T.; Kolkhorst; Kuempel; Larson; Lavender; Legler; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Patrick; Peña; Pickett; Price; Quintanilla; Raymond; Reynolds; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Smith, T.; Smithee; Solomons; Strama; Taylor, L.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Woolley; Workman; Zerwas.

Nays — Cain; Callegari; Chisum; Creighton; Davis, S.; Harper-Brown; Howard, C.; King, S.; Kleinschmidt; Landtroop; Laubenberg; Lewis; Miller, S.; Parker; Paxton; Perry; Phillips; Pitts; Riddle; Simpson; Smith, W.; Taylor, V.; Weber; White; Zedler.

Present, not voting — Mr. Speaker(C).

Absent — Anderson, C.; Branch; Ritter.

STATEMENTS OF VOTE

When Record No. 1709 was taken, my vote failed to register. I would have voted yes.

C. Anderson

When Record No. 1709 was taken, my vote failed to register. I would have voted no.

Branch

I was shown voting yes on Record No. 1709. I intended to vote no.

Hughes

I was shown voting yes on Record No. 1709. I intended to vote no.

P. King

I was shown voting no on Record No. 1709. I intended to vote yes.

S. King

I was shown voting yes on Record No. 1709. I intended to vote no.

Orr

SB 1811 - RULES SUSPENDED

Representative Geren moved to suspend all necessary rules to consider the conference committee report on **SB 1811** at this time, to extend the debate time to 40 minutes, and to limit the closing speeches to 45 minutes.

The vote of the house was taken on the motion to suspend all necessary rules and the vote was announced yeas 100, nays 50.

A verification of the vote was requested and was granted.

The roll of those voting yea and nay was again called and the verified vote resulted, as follows (Record 1710): 100 Yeas, 48 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; Eissler; Elkins; Fletcher; Flynn; Frullo; Garza; Geren; Gonzales, L.; Gooden; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hopson; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Margo; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; 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; Castro; Coleman; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Farias; Farrar; Gallego; Giddings; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hernandez Luna; Hochberg; Howard, D.; Johnson; King, T.; Lozano; Lucio; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Muñoz; Naishtat; Oliveira; Pickett; Quintanilla; Raymond; Reynolds; Rodriguez; Simpson; Strama; Thompson; Turner; Veasey; Villarreal; Vo; Walle.

Absent — Burnam; Miles.

The speaker stated that the motion to suspend all necessary rules, extend debate time, and limit closing speeches prevailed by the above vote.

HR 2723 - ADOPTED
(by Pitts)

The following privileged resolution was laid before the house:

HR 2723

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 1811**, relating to certain state fiscal matters; providing penalties, to consider and take action on the following matters:

(1) House Rule 13, Section 9(a)(4), is suspended to permit the committee to add text not included in either the house or senate version of the bill, in SECTION 43.01 of the bill, in amended Section 2155.082, Government Code, to read as follows:

SECTION 43.01. Section 2155.082, Government Code, is amended to read as follows:

Sec. 2155.082. PROVIDING CERTAIN PURCHASING SERVICES ON FEE-FOR-SERVICE BASIS OR THROUGH BENEFIT FUNDING. (a) The comptroller ~~[commission]~~ may provide open market purchasing services on a fee-for-service basis for state agency purchases that are delegated to an agency under Section 2155.131, 2155.132, ~~[2155.133,]~~ or 2157.121 or that are exempted from the purchasing authority of the comptroller ~~[commission]~~. The comptroller ~~[commission]~~ shall set the fees in an amount that recovers the comptroller's ~~[commission's]~~ costs in providing the services.

(b) The comptroller ~~[commission]~~ shall publish a schedule of ~~[its]~~ fees for services that are subject to this section. The schedule must include the comptroller's ~~[commission's]~~ fees for:

(1) reviewing bid and contract documents for clarity, completeness, and compliance with laws and rules;

(2) developing and transmitting invitations to bid;

(3) receiving and tabulating bids;

(4) evaluating and determining which bidder offers the best value to the state;

(5) creating and transmitting purchase orders; and

(6) participating in agencies' request for proposal processes.

(c) If the state agency on behalf of which the procurement is to be made agrees, the comptroller may engage a consultant to assist with a particular procurement on behalf of a state agency and pay the consultant from the cost savings realized by the state agency.

EXPLANATION: This change is necessary to allow a state agency to have the authority to agree to the comptroller engaging a consultant.

(2) House Rule 13, Sections 9(3) and 9(4) are suspended to permit the committee to add text on a matter not in disagreement and text on a matter not included in either version of the bill by adding provisions amending Chapter 490, Government Code, and Chapters 203, 204, and 302, Labor Code so that Article 57 reads as follows:

ARTICLE 57. ENTERPRISE AND EMERGING TECHNOLOGY FUNDS

SECTION 57.01. Section 481.078, Government Code, is amended by amending Subsections (e) and (j) and adding Subsections (f-1), (f-2), and (h-1) to read as follows:

(e) The administration of the fund is considered to be a trustee program within the office of the governor. The governor may negotiate on behalf of the state regarding awarding, by grant, money appropriated from the fund. The governor may award money appropriated from the fund only with the ~~[express written]~~ prior approval of the lieutenant governor and speaker of the house of representatives. For purposes of this subsection, an award of money appropriated

from the fund is considered disapproved by the lieutenant governor or speaker of the house of representatives if that officer does not approve the proposal to award the grant before the 91st day after the date of receipt of the proposal from the governor. The lieutenant governor or the speaker of the house of representatives may extend the review deadline applicable to that officer for an additional 14 days by submitting a written notice to that effect to the governor before the expiration of the initial review period.

(f-1) A grant agreement must contain a provision:

- (1) requiring the creation of a minimum number of jobs in this state;
- and
- (2) specifying the date by which the recipient intends to create those jobs.

(f-2) A grant agreement must contain a provision providing that if the recipient does not meet job creation performance targets as of the dates specified in the agreement, the recipient shall repay the grant in accordance with Subsection (j).

(h-1) At least 14 days before the date the governor intends to amend a grant agreement, the governor shall notify and provide a copy of the proposed amendment to the speaker of the house of representatives, the lieutenant governor, and the presiding officers of the standing committees of both houses of the legislature with primary jurisdiction over economic development.

(j) Repayment of a grant under Subsection (f)(1)(A) shall ~~may~~ be prorated to reflect a partial attainment of job creation performance targets, and may be prorated for a partial attainment of other performance targets.

SECTION 57.02. Subsections (a) and (b), Section 490.005, Government Code, are amended to read as follows:

(a) Not later than January 31 [4] of each year, the governor shall submit to the lieutenant governor, the speaker of the house of representatives, and the standing committee of each house of the legislature with primary jurisdiction over economic development matters and post on the office of the governor's Internet website a report that includes the following information regarding awards made under the fund during each [for the] preceding [three] state fiscal year [years]:

- (1) the total number and amount of awards made;
- (2) the number and amount of awards made under Subchapters D, E, and F;
- (3) the aggregate total of private sector investment, federal government funding, and contributions from other sources obtained in connection with awards made under each of the subchapters listed in Subdivision (2);
- (4) the name of each award recipient and the amount of the award made to the recipient; and

(5) a brief description of the equity position that the governor, on behalf of the state, may take in companies receiving awards and the names of the companies in which the state has taken an equity position.

(b) The annual report must also contain:

- (1) the total number of jobs actually created by each project receiving funding under this chapter;

(2) an analysis of the number of jobs actually created by each project receiving funding under this chapter; and

(3) a brief description regarding:

(A) the methodology used to determine the information provided under Subdivisions (1) and (2), which may be developed in consultation with the comptroller's office;

(B) ~~[(1)]~~ the intended outcomes of projects funded under Subchapter D during each ~~[the]~~ preceding ~~[two]~~ state fiscal year ~~[years]~~; and

(C) ~~[(2)]~~ the actual outcomes of all projects funded under Subchapter D during each preceding state fiscal year ~~[the fund's existence]~~, including any financial impact on the state resulting from a liquidity event involving a company whose project was funded under that subchapter.

SECTION 57.03. Subchapter A, Chapter 490, Government Code, is amended by adding Section 490.006 to read as follows:

Sec. 490.006. VALUATION OF INVESTMENTS; INCLUSION IN ANNUAL REPORT. To the maximum extent practicable, the office of the governor shall annually perform a valuation of the equity positions taken by the governor, on behalf of the state, in companies receiving awards under the fund and of other investments made by the governor, on behalf of the state, in connection with an award under the fund. The valuation must:

(1) be based on a methodology that:

(A) may be developed in consultation with the comptroller's office;
and

(B) is consistent with generally accepted accounting principles; and

(2) be included with the annual report required under Section 490.005.

SECTION 57.04. The heading to Section 490.052, Government Code, is amended to read as follows:

Sec. 490.052. APPOINTMENT TO COMMITTEE ~~[BY GOVERNOR]~~; NOMINATIONS.

SECTION 57.05. Section 490.052, Government Code, is amended by amending Subsection (a) and adding Subsections (a-1) and (a-2) to read as follows:

(a) The governor shall appoint to the committee 13 individuals nominated as provided by Subsection (b).

(a-1) The lieutenant governor shall appoint two individuals to the committee.

(a-2) The speaker of the house of representatives shall appoint two individuals to the committee.

SECTION 57.06. Subchapter B, Chapter 490, Government Code, is amended by adding Section 490.0521 to read as follows:

Sec. 490.0521. FINANCIAL STATEMENT REQUIRED. Each member of the committee shall file with the office of the governor a verified financial statement complying with Sections 572.022 through 572.0252 as is required of a state officer by Section 572.021.

SECTION 57.07. Section 490.054, Government Code, is amended to read as follows:

Sec. 490.054. TERMS. (a) Members of the committee appointed by the governor serve staggered two-year terms, subject to the pleasure of the governor.

(b) Members of the committee appointed by the lieutenant governor or the speaker of the house of representatives serve two-year terms.

SECTION 57.08. Section 490.056, Government Code, is amended by adding Subsections (c), (d), and (e) to read as follows:

(c) Each entity recommended by the committee for an award of money from the fund as provided by this chapter shall obtain and provide the following information to the office of the governor:

(1) a federal criminal history background check for each principal of the entity;

(2) a state criminal history background check for each principal of the entity;

(3) a credit check for each principal of the entity;

(4) a copy of a government-issued form of photo identification for each principal of the entity; and

(5) information regarding whether the entity or a principal of the entity has ever been subject to a sanction imposed by the Securities and Exchange Commission for a violation of applicable federal law.

(d) For purposes of Subsection (c), "principal" means:

(1) an officer of an entity; or

(2) a person who has at least a 10 percent ownership interest in an entity.

(e) With each proposal to award funding submitted by the governor to the lieutenant governor and speaker of the house of representatives for purposes of obtaining prior approval, the governor shall provide each officer with a copy of the information provided by the appropriate entity under Subsection (c).

SECTION 57.09. Section 490.057, Government Code, is amended to read as follows:

Sec. 490.057. CONFIDENTIALITY. (a) Except as provided by Subsection (b), information ~~[Information]~~ collected by the governor's office, the committee, or the committee's advisory panels concerning the identity, background, finance, marketing plans, trade secrets, or other commercially or academically sensitive information of an individual or entity being considered for, receiving, or having received an award from the fund is confidential unless the individual or entity consents to disclosure of the information.

(b) The following information collected by the governor's office, the committee, or the committee's advisory panels under this chapter is public information and may be disclosed under Chapter 552:

(1) the name and address of an individual or entity receiving or having received an award from the fund;

(2) the amount of funding received by an award recipient;

(3) a brief description of the project that is funded under this chapter;

(4) if applicable, a brief description of the equity position that the governor, on behalf of the state, has taken in an entity that has received an award from the fund; and

(5) any other information designated by the committee with the consent of:

(A) the individual or entity receiving or having received an award from the fund, as applicable;

(B) the governor;

(C) the lieutenant governor; and

(D) the speaker of the house of representatives.

SECTION 57.10. Section 490.101, Government Code, is amended by amending Subsection (f) and adding Subsection (f-1) to read as follows:

(f) The administration of the fund is considered to be a trustee program within the office of the governor. The governor may negotiate on behalf of the state regarding awards from the fund. The governor may award money appropriated from the fund only with the ~~[express written]~~ prior approval of the lieutenant governor and speaker of the house of representatives.

(f-1) For purposes of Subsection (f), an award of money appropriated from the fund is considered disapproved by the lieutenant governor or speaker of the house of representatives if that officer does not approve the proposal to award funding before the 91st day after the date of receipt of the proposal from the governor. The lieutenant governor or the speaker of the house of representatives may extend the review deadline applicable to that officer for an additional 14 days by submitting a written notice to that effect to the governor before the expiration of the initial review period.

SECTION 57.11. Subsection (a), Section 490.151, Government Code, is amended to read as follows:

(a) Amounts allocated from the fund for use as provided by this subchapter shall be used only to provide direct funding to ~~[reserved for incentives for]~~ private or nonprofit entities for incentives to collaborate with public or private institutions of higher education in this state on emerging technology projects intended to accelerate the commercialization of intellectual property derived from the institutions of higher education ~~[with a demonstrable economic benefit to this state].~~

SECTION 57.12. Subchapter D, Chapter 490, Government Code, is amended by adding Section 490.1521 to read as follows:

Sec. 490.1521. MINUTES OF CERTAIN MEETINGS. (a) Each regional center of innovation and commercialization established under Section 490.152, including the Texas Life Science Center for Innovation and Commercialization, shall keep minutes of each meeting at which applications for funding under this subchapter are evaluated. The minutes must:

(1) include the name of each applicant recommended by the regional center of innovation and commercialization to the committee for funding; and

(2) indicate the vote of each member of the governing body of the regional center of innovation and commercialization, including any recusal by a member and the member's reason for recusal, with regard to each application reviewed.

(b) Each regional center of innovation and commercialization shall retain a copy of the minutes of each meeting to which this section applies for at least three years.

SECTION 57.13. Section 203.021, Labor Code, is amended by adding Subsection (e) to read as follows:

(e) Money in the compensation fund may not be transferred to the:

(1) Texas Enterprise Fund created under Section 481.078, Government Code; or

(2) Texas emerging technology fund established under Section 490.101, Government Code.

SECTION 57.14. Section 204.123, Labor Code, is amended to read as follows:

Sec. 204.123. ~~TRANSFER TO [TEXAS ENTERPRISE FUND,] SKILLS DEVELOPMENT FUND, TRAINING STABILIZATION FUND, AND COMPENSATION FUND.~~ (a) If, on September 1 of a year, the commission determines that the amount in the compensation fund will exceed 100 percent of its floor as computed under Section 204.061 on the next October 1 computation date, the commission shall transfer from the holding fund created under Section 204.122:

~~(1) [from the first \$160 million deposited in the holding fund in any state fiscal biennium:~~

~~[(A) during the state fiscal biennium ending August 31, 2007:~~

~~[(i) 67 percent to the Texas Enterprise Fund created under Section 481.078, Government Code, except that the amount transferred under this paragraph may not exceed the amount appropriated by the legislature to the Texas Enterprise Fund in that biennium; and~~

~~[(ii) 33 percent to the skills development fund created under Section 303.003, except that the amount transferred under this paragraph may not exceed the amount appropriated by the legislature to the skills development program strategies and activities in that biennium; and~~

~~[(B)] during any state fiscal biennium beginning on or after September 1, 2007, 100 [:~~

~~[(i) 75 percent to the Texas Enterprise Fund created under Section 481.078, Government Code, except that the amount transferred under this paragraph may not exceed the amount appropriated by the legislature to the Texas Enterprise Fund in that biennium; and~~

~~[(ii) 25] percent to the skills development fund created under Section 303.003, except that the amount transferred under this subdivision [paragraph] may not exceed the amount appropriated by the legislature to the skills development program strategies and activities in that biennium; and~~

(2) any remaining amount in the holding fund after the distribution under Subdivision (1) to the training stabilization fund created under Section 302.101.

(b) If, on September 1 of a year, the commission determines that the amount in the compensation fund will be at or below 100 percent of its floor as computed under Section 204.061 on the next October 1 computation date, the commission

shall transfer to the compensation fund as much of the amount in the holding fund as is necessary to raise the amount in the compensation fund to 100 percent of its floor, up to and including the entire amount in the holding fund. The commission shall transfer any remaining balance in the holding fund to the ~~[Texas Enterprise Fund, the]~~ skills development fund~~[-]~~ and the training stabilization fund in the manner ~~[in the percentages]~~ prescribed by Subsection (a).

SECTION 57.15. Subsections (b) and (c), Section 302.101, Labor Code, are amended to read as follows:

(b) Money in the training stabilization fund may be used in a year in which the amounts in the employment and training investment holding fund are insufficient to meet the legislative appropriation for that fiscal year for ~~[either the Texas Enterprise Fund or]~~ the skills development program strategies and activities.

(c) Money in the training stabilization fund shall be transferred to the ~~[Texas Enterprise Fund and the]~~ skills development fund under Subsection (b) not later than September 30. ~~[The transfer under Subsection (b) shall consist of transferring 67 percent of the money in the training stabilization fund to the Texas Enterprise Fund and 33 percent of the money in the training stabilization fund to the skills development fund.]~~ The amount transferred from the training stabilization fund may not exceed the amounts appropriated to the ~~[Texas Enterprise Fund and]~~ skills development program strategies and activities in the fiscal year in which the transfer is made.

SECTION 57.16. Sections 481.078(e) and 490.101(f), Government Code, as amended by this article, and Section 490.101(f-1), Government Code, as added by this article, apply only to a proposal for an award from the Texas Enterprise Fund or Texas emerging technology fund submitted by the governor to the lieutenant governor or speaker of the house of representatives for prior approval on or after the effective date of this article. A proposal submitted by the governor for prior approval before the effective date of this article is governed by the law in effect on the date the proposal was submitted for that approval, and the former law is continued in effect for that purpose.

SECTION 57.17. Section 481.078(j), Government Code, as amended by this article, and Sections 481.078(f-1) and (f-2), Government Code, as added by this article, apply only to a grant agreement that is entered into on or after the effective date of this article. A grant agreement that is entered into before the effective date of this article is governed by the law in effect on the date the agreement was entered into, and the former law is continued in effect for that purpose.

SECTION 57.18. (a) The terms of the members of the Texas Emerging Technology Advisory Committee serving immediately before the effective date of this article expire September 1, 2011.

(b) As soon as practicable after this article takes effect, the governor, lieutenant governor, and speaker of the house of representatives shall appoint members to the Texas Emerging Technology Advisory Committee established under Subchapter B, Chapter 490, Government Code, in a manner that complies with that subchapter, as amended by this article.

(c) At the first meeting of members of the Texas Emerging Technology Advisory Committee established under Subchapter B, Chapter 490, Government Code, as amended by this article, occurring on or after September 1, 2011, the members appointed by the governor shall draw lots to determine which six members will serve a term expiring September 1, 2012, and which seven members will serve a term expiring September 1, 2013.

Explanation: This change is necessary to reform the functions and administration of the Texas Enterprise Fund and the Texas Emerging Technology Fund.

(3) House Rule 13, Section 9(4) is suspended to permit the committee to add text on a matter not included in either version of the bill by adding Section 45.02 to Article 45 of the bill amending Chapter 322, Government Code, to read as follows:

SECTION 45.02. Chapter 322, Government Code, is amended by adding Section 322.0081 to read as follows:

Sec. 322.0081. BUDGET DOCUMENTS ONLINE. (a) The board shall post on the board's Internet website documents prepared by the board that are provided to a committee, subcommittee, or conference committee of either house of the legislature in connection with an appropriations bill.

(b) The board shall post a document to which this section applies as soon as practicable after the document is provided to a committee, subcommittee, or conference committee.

(c) The document must be downloadable and provide data in a format that allows the public to search, extract, organize, and analyze the information in the document.

(d) The requirement under Subsection (a) does not supersede any exceptions provided under Chapter 552.

(e) The board shall promulgate rules to implement the provisions of this section.

Explanation: This change is necessary to provide for certain budget documents to be made available on the Internet website of the Legislative Budget Board.

(4) House Rule 13, Section 9(4) is suspended to permit the committee to add text on a matter not included in either version of the bill by adding Section 56.02 to Article 56 of the bill to read as follows:

SECTION 56.02. Subsection (c), Section 171.0002, Tax Code, is amended to read as follows:

(c) "Taxable entity" does not include an entity that is:

(1) a grantor trust as defined by Sections 671 and 7701(a)(30)(E), Internal Revenue Code, all of the grantors and beneficiaries of which are natural persons or charitable entities as described in Section 501(c)(3), Internal Revenue Code, excluding a trust taxable as a business entity pursuant to Treasury Regulation Section 301.7701-4(b);

(2) an estate of a natural person as defined by Section 7701(a)(30)(D), Internal Revenue Code, excluding an estate taxable as a business entity pursuant to Treasury Regulation Section 301.7701-4(b);

(3) an escrow;

(4) a real estate investment trust (REIT) as defined by Section 856, Internal Revenue Code, and its "qualified REIT subsidiary" entities as defined by Section 856(i)(2), Internal Revenue Code, provided that:

(A) a REIT with any amount of its assets in direct holdings of real estate, other than real estate it occupies for business purposes, as opposed to holding interests in limited partnerships or other entities that directly hold the real estate, is a taxable entity; and

(B) a limited partnership or other entity that directly holds the real estate as described in Paragraph (A) is not exempt under this subdivision, without regard to whether a REIT holds an interest in it;

(5) a real estate mortgage investment conduit (REMIC), as defined by Section 860D, Internal Revenue Code;

(6) a nonprofit self-insurance trust created under Chapter 2212, Insurance Code, or a predecessor statute;

(7) a trust qualified under Section 401(a), Internal Revenue Code; ~~or~~

(8) a trust or other entity that is exempt under Section 501(c)(9), Internal Revenue Code; or

(9) an unincorporated entity organized as a political committee under the Election Code or the provisions of the Federal Election Campaign Act of 1971 (2 U.S.C. Section 431 et seq.).

Explanation: This change is necessary to ensure that certain unincorporated political committees are not considered "taxable entities" for purposes of the franchise tax.

(5) House Rule 13, Section 9(4) is suspended to permit the committee to add text on a matter not included in either version of the bill by adding proposed Article 61 to read as follows:

ARTICLE 61. CERTAIN CONTRIBUTION RATE COMPUTATIONS

SECTION 61.01. Section 815.402, Government Code, is amended by adding Subsections (a-1) and (h-1) to read as follows:

(a-1) Notwithstanding Subsection (a)(1), if the state contribution to the retirement system is computed using a percentage less than 6.5 percent for the state fiscal year beginning September 1, 2011, the member's contribution is not required to be computed using a percentage equal to the percentage used to compute the state contribution for that biennium. This subsection expires September 1, 2012.

(h-1) Notwithstanding Subsection (h), if the state contribution to the law enforcement and custodial officer supplemental retirement fund is computed using a percentage less than 0.5 percent for the state fiscal year beginning September 1, 2011, the member's contribution is not required to be computed using a percentage equal to the percentage used to compute the state contribution for that biennium. This subsection expires September 1, 2012.

Explanation: This change is necessary to allow, for one year, for a difference between the percentage used for the computations of the state retirement system contributions and that used for members' retirement system contributions for certain system members.

(6) House Rule 13, Section 9(4) is suspended to permit the committee to add text on a matter not included in either version of the bill by adding proposed Article 62 to read as follows:

ARTICLE 62. QUINQUENNIAL REPORTING OF CERTAIN INFORMATION
FOR UNCLAIMED PROPERTY

SECTION 62.01. Subsection (a), Section 411.0111, Government Code, is amended to read as follows:

(a) Not later than June 1 of every fifth ~~[each]~~ year, the department shall provide to the comptroller, for the purpose of assisting the comptroller in the identification of persons entitled to unclaimed property reported to the comptroller, the name, address, social security number, date of birth, and driver's license or state identification number of each person about whom the department has such information in its records.

SECTION 62.02. Subsection (a), Section 811.010, Government Code, as added by Chapter 232 (**SB 1589**), Acts of the 81st Legislature, Regular Session, 2009, is amended to read as follows:

(a) Not later than June 1 of every fifth ~~[each]~~ year, the retirement system shall provide to the comptroller, for the purpose of assisting the comptroller in the identification of persons entitled to unclaimed property reported to the comptroller, the name, address, social security number, and date of birth of each member, retiree, and beneficiary from the retirement system's records.

SECTION 62.03. Subsection (a), Section 821.010, Government Code, is amended to read as follows:

(a) Not later than June 1 of every fifth ~~[each]~~ year, the retirement system shall provide to the comptroller, for the purpose of assisting the comptroller in the identification of persons entitled to unclaimed property reported to the comptroller, the name, address, social security number, and date of birth of each member, retiree, and beneficiary from the retirement system's records.

SECTION 62.04. Subsection (a), Section 301.086, Labor Code, is amended to read as follows:

(a) Not later than June 1 of every fifth ~~[each]~~ year, the commission shall provide to the comptroller, for the purpose of assisting the comptroller in the identification of persons entitled to unclaimed property reported to the comptroller, the name, address, social security number, and date of birth of each person about whom the commission has such information in its records.

SECTION 62.05. The Department of Public Safety, the Employees Retirement System of Texas, the Teacher Retirement System of Texas, and the Texas Workforce Commission shall provide information to the comptroller as required by Sections 411.0111(a), 811.010(a), and 821.010(a), Government Code, and Section 301.086(a), Labor Code, as amended by this article, beginning in 2016.

Explanation: This change is necessary to provide for certain reports, filed for the purpose of assisting the comptroller in the identification of persons entitled to unclaimed property, to be filed every fifth year instead of annually.

(7) House Rule 13, Section 9(4) is suspended to permit the committee to add text on a matter not included in either version of the bill by adding proposed Article 63 to read as follows:

ARTICLE 63. AD VALOREM TAXATION OF CERTAIN STORED
PROPERTY

SECTION 63.01. Subsection (a), Section 11.253, Tax Code, is amended by amending Subdivision (2) and adding Subdivisions (5) and (6) to read as follows:

(2) "Goods-in-transit" means tangible personal property that:

(A) is acquired in or imported into this state to be forwarded to another location in this state or outside this state;

(B) is stored under a contract of bailment by a public warehouse operator ~~[detained]~~ at one or more public warehouse facilities ~~[a location]~~ in this state that are not in any way owned or controlled by ~~[in which]~~ the owner of the personal property ~~[does not have a direct or indirect ownership interest]~~ for the account of ~~[assembling, storing, manufacturing, processing, or fabricating purposes by]~~ the person who acquired or imported the property;

(C) is transported to another location in this state or outside this state not later than 175 days after the date the person acquired the property in or imported the property into this state; and

(D) does not include oil, natural gas, petroleum products, aircraft, dealer's motor vehicle inventory, dealer's vessel and outboard motor inventory, dealer's heavy equipment inventory, or retail manufactured housing inventory.

(5) "Bailee" and "warehouse" have the meanings assigned by Section 7.102, Business & Commerce Code.

(6) "Public warehouse operator" means a person that:

(A) is both a bailee and a warehouse; and

(B) stores under a contract of bailment, at one or more public warehouse facilities, tangible personal property that is owned by other persons solely for the account of those persons and not for the operator's account.

SECTION 63.02. Section 11.253, Tax Code, is amended by amending Subsections (e) and (h) and adding Subsections (j-1) and (j-2) to read as follows:

(e) In determining the market value of goods-in-transit that in the preceding year were ~~[assembled,]~~ stored~~[, manufactured, processed, or fabricated]~~ in this state, the chief appraiser shall exclude the cost of equipment, machinery, or materials that entered into and became component parts of the goods-in-transit but were not themselves goods-in-transit or that were not transported to another location in this state or outside this state before the expiration of 175 days after the date they were brought into this state by the property owner or acquired by the property owner in this state. For component parts held in bulk, the chief appraiser may use the average length of time a component part was held by the owner of the component parts during the preceding year at a location in this state that was not owned by or under the control of the owner of the component parts in determining whether the component parts were transported to another location in this state or outside this state before the expiration of 175 days.

(h) The chief appraiser by written notice delivered to a property owner who claims an exemption under this section may require the property owner to provide copies of property records so the chief appraiser can determine the amount and value of goods-in-transit and that the location in this state where the goods-in-transit were detained for storage [~~assembling, storing, manufacturing, processing, or fabricating purposes~~] was not owned by or under the control of the owner of the goods-in-transit. If the property owner fails to deliver the information requested in the notice before the 31st day after the date the notice is delivered to the property owner, the property owner forfeits the right to claim or receive the exemption for that year.

(j-1) Notwithstanding Subsection (j) or official action that was taken under that subsection before September 1, 2011, to tax goods-in-transit exempt under Subsection (b) and not exempt under other law, a taxing unit may not tax such goods-in-transit in a tax year that begins on or after January 1, 2012, unless the governing body of the taxing unit takes action on or after September 1, 2011, in the manner required for official action by the governing body, to provide for the taxation of the goods-in-transit. The official action to tax the goods-in-transit must be taken before January 1 of the first tax year in which the governing body proposes to tax goods-in-transit. Before acting to tax the exempt property, the governing body of the taxing unit must conduct a public hearing as required by Section 1-n(d), Article VIII, Texas Constitution. If the governing body of a taxing unit provides for the taxation of the goods-in-transit as provided by this subsection, the exemption prescribed by Subsection (b) does not apply to that unit. The goods-in-transit remain subject to taxation by the taxing unit until the governing body of the taxing unit, in the manner required for official action, rescinds or repeals its previous action to tax goods-in-transit or otherwise determines that the exemption prescribed by Subsection (b) will apply to that taxing unit.

(j-2) Notwithstanding Subsection (j-1), if under Subsection (j) the governing body of a taxing unit, before September 1, 2011, took action to provide for the taxation of goods-in-transit and pledged the taxes imposed on the goods-in-transit for the payment of a debt of the taxing unit, the tax officials of the taxing unit may continue to impose the taxes against the goods-in-transit until the debt is discharged, if cessation of the imposition would impair the obligation of the contract by which the debt was created.

SECTION 63.03. Subdivision (2), Subsection (a), Section 11.253, Tax Code, as amended by this article, applies only to an ad valorem tax year that begins on or after January 1, 2012.

SECTION 63.04. (a) Except as provided by Subsection (b) of this section, this article takes effect January 1, 2012.

(b) Section 63.02 of this article takes effect September 1, 2011.

Explanation: This change is necessary to clarify the law regarding the exemption from ad valorem taxation of certain property stored temporarily at a location in this state.

(8) House Rule 13, Section 9(4) is suspended to permit the committee to add text on a matter not included in either version of the bill by adding proposed Article 64 to read as follows:

ARTICLE 64. FISCAL MATTERS CONCERNING ADVANCED
PLACEMENT

SECTION 64.01. Subsection (h), Section 28.053, Education Code, is amended to read as follows:

(h) The commissioner may enter into agreements with the college board and the International Baccalaureate Organization to pay for all examinations taken by eligible public school students. An eligible student is a student ~~[one]~~ who:

(1) takes a college advanced placement or international baccalaureate course at a public school or who is recommended by the student's principal or teacher to take the test; and

(2) demonstrates financial need as determined in accordance with guidelines adopted by the board that are consistent with the definition of financial need adopted by the college board or the International Baccalaureate Organization.

Explanation: This change is necessary to provide that only students who demonstrate financial need are eligible students for the purpose of payments for certain examinations related to an advanced placement course or international baccalaureate course.

(9) House Rule 13, Section 9(4) is suspended to permit the committee to add text on a matter not included in either version of the bill by adding proposed Article 65 to read as follows:

ARTICLE 65. FISCAL MATTERS CONCERNING TUITION EXEMPTIONS

SECTION 65.01. Subsection (c), Section 54.214, Education Code, is amended to read as follows:

(c) To be eligible for an exemption under this section, a person must:

(1) be a resident of this state;

(2) be a school employee serving in any capacity;

(3) for the initial term or semester for which the person receives an exemption under this section, have worked as an educational aide for at least one school year during the five years preceding that term or semester;

(4) establish financial need as determined by coordinating board rule;

(5) be enrolled at the institution of higher education granting the exemption in courses required for teacher certification in one or more subject areas determined by the Texas Education Agency to be experiencing a critical shortage of teachers at the public schools in this state [at the institution of higher education granting the exemption];

(6) maintain an acceptable grade point average as determined by coordinating board rule; and

(7) comply with any other requirements adopted by the coordinating board under this section.

SECTION 65.02. The change in law made by this article applies beginning with tuition and fees charged for the 2011 fall semester. Tuition and fees charged for a term or semester before the 2011 fall semester are covered by the law in effect during the term or semester for which the tuition and fees are charged, and the former law is continued in effect for that purpose.

Explanation: This change is necessary to provide for targeting tuition exemptions to course work in subject areas for which there is a shortage of teachers.

(10) House Rule 13, Section 9(4) is suspended to permit the committee to add text on a matter not included in either version of the bill by adding proposed Article 66 to read as follows:

ARTICLE 66. FISCAL MATTERS CONCERNING DUAL HIGH SCHOOL
AND JUNIOR COLLEGE CREDIT

SECTION 66.01. Subsection (c), Section 130.008, Education Code, is amended to read as follows:

(c) The contact hours attributable to the enrollment of a high school student in a course offered for joint high school and junior college credit under this section, excluding a course for which the student attending high school may receive course credit toward the physical education curriculum requirement under Section 28.002(a)(2)(C), shall be included in the contact hours used to determine the junior college's proportionate share of the state money appropriated and distributed to public junior colleges under Sections 130.003 and 130.0031, even if the junior college waives all or part of the tuition or fees for the student under Subsection (b).

SECTION 66.02. This article applies beginning with funding for the 2011 fall semester.

Explanation: This change is necessary to prevent junior colleges from receiving state funding for high school students enrolled for dual credit in physical education courses.

(11) House Rule 13, Section 9(4) is suspended to permit the committee to add text on a matter not included in either version of the bill by adding proposed Article 67 to read as follows:

ARTICLE 67. CLASSIFICATION OF ENTITIES AS ENGAGED IN RETAIL
TRADE FOR PURPOSES OF THE FRANCHISE TAX

SECTION 67.01. Subdivision (12), Section 171.0001, Tax Code, is amended to read as follows:

(12) "Retail trade" means:

(A) the activities described in Division G of the 1987 Standard Industrial Classification Manual published by the federal Office of Management and Budget; and

(B) apparel rental activities classified as Industry 5999 or 7299 of the 1987 Standard Industrial Classification Manual published by the federal Office of Management and Budget.

SECTION 67.02. This article applies only to a report originally due on or after the effective date of this Act.

SECTION 67.03. This article takes effect January 1, 2012.

Explanation: This change is necessary to clarify the treatment of clothing rental businesses for purposes of the franchise tax.

(12) House Rule 13, Section 9(4) is suspended to permit the committee to add text on a matter not included in either version of the bill by adding proposed Article 68 to read as follows:

ARTICLE 68. RETENTION OF CERTAIN FOUNDATION SCHOOL FUND
PAYMENTS

SECTION 68.01. Subchapter E, Chapter 42, Education Code, is amended by adding Section 42.2511 to read as follows:

Sec. 42.2511. AUTHORIZATION FOR CERTAIN DISTRICTS TO RETAIN ADDITIONAL STATE AID. (a) This section applies only to a school district that was provided with state aid under former Section 42.2516 for the 2009-2010 or 2010-2011 school year based on the amount of aid to which the district would have been entitled under that section if Section 42.2516(g), as it existed on January 1, 2009, applied to determination of the amount to which the district was entitled for that school year.

(b) Notwithstanding any other law, a district to which this section applies may retain the state aid provided to the district as described by Subsection (a).

(c) This section expires September 1, 2013.

SECTION 68.02. It is the intent of the legislature that the authorization provided by Section 42.2511, Education Code, as added by this article, to retain state aid described by that section is not affected by the expiration of that provision on September 1, 2013.

Explanation: This change is necessary to allow school districts that adopted a tax rate lower than the applicable compressed tax rate to retain additional state aid for tax reduction that was received in the 2009-2010 or 2010-2011 school year.

(13) House Rule 13, Section 9(4) is suspended to permit the committee to add text on a matter not included in either version of the bill by adding proposed Article 69 to read as follows:

ARTICLE 69. THE STATE COMPRESSION PERCENTAGE

SECTION 69.01. Section 42.2516, Education Code, is amended by adding Subsection (b-2) to read as follows:

(b-2) If a school district adopts a maintenance and operations tax rate that is below the rate equal to the product of the state compression percentage multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year, the commissioner shall reduce the district's entitlement under this section in proportion to the amount by which the adopted rate is less than the rate equal to the product of the state compression percentage multiplied by the rate adopted by the district for the 2005 tax year. The reduction required by this subsection applies beginning with the maintenance and operations tax rate adopted for the 2009 tax year.

Explanation: This change is necessary to provide for a reduced amount of additional state aid for tax reduction to a school district that adopts a tax rate lower than the applicable compressed tax rate.

(14) House Rule 13, Section 9(4) is suspended to permit the committee to add text on a matter not included in either version of the bill by adding proposed Article 70 to read as follows:

ARTICLE 70. TEXAS GUARANTEED STUDENT LOAN CORPORATION;
BOARD OF DIRECTORS

SECTION 70.01. Subsections (a) and (b), Section 57.13, Education Code, are amended to read as follows:

(a) The corporation is governed by a board of nine ~~[++]~~ directors in accordance with this section.

(b) The governor, with the advice and consent of the senate, shall appoint the ~~[+0]~~ members of ~~[to]~~ the board as follows:

(1) four ~~[five]~~ members who must have knowledge of or experience in finance, including management of funds or business operations;

(2) one member who must be a student enrolled at a postsecondary educational institution for the number of credit hours required by the institution to be classified as a full-time student of the institution; and

(3) four members who must be members the faculty or administration of a ~~[an eligible]~~ postsecondary educational institution that is an eligible institution for purposes of the Higher Education Act of 1965, as amended, ~~as defined by Section 57.46~~.

SECTION 70.02. Section 57.17, Education Code, is amended to read as follows:

Sec. 57.17. OFFICERS. The governor shall designate the chairman from among the board's membership. The board shall elect from among its members a ~~[chairman]~~ vice-chairman ~~[-]~~ and other officers that the board considers necessary. The chairman and vice-chairman serve for a term of one year and may be redesignated or reelected, as applicable.

SECTION 70.03. Subsection (d), Section 57.13, Education Code, is repealed.

Explanation: This change is necessary to reform the governance of the Texas Guaranteed Student Loan Corporation.

(15) House Rule 13, Section 9(4) is suspended to permit the committee to add text on a matter not included in either version of the bill by adding proposed Article 71 to read as follows:

ARTICLE 71. DRIVER'S LICENSES AND PERSONAL IDENTIFICATION
CERTIFICATES

SECTION 71.01. Subchapter A, Chapter 521, Transportation Code, is amended by adding Section 521.007 to read as follows:

Sec. 521.007. SECURITY, VALIDITY, AND EFFICIENCY STUDY. (a) Notwithstanding any other law, the commission shall study procedures and requirements necessary or advisable to ensure the security, validity, and efficiency of driver's licenses and personal identification certificates issued under this chapter. The study must include an analysis of potential cost savings, revenue issues, and other fiscal matters related to the issuance of the license and certificates. The commission shall adopt rules to implement any procedures or requirements the commission finds are necessary or advisable.

(b) Notwithstanding any other law, the commission by rule may specify the term of a driver's license or personal identification certificate issued under this chapter.

SECTION 71.02. The legislature declares that the Department of Public Safety had the statutory authority to adopt the rules regarding driver's licenses and personal identification certificates that are in effect on the effective date of this article and that the rules are valid.

SECTION 71.03. This article takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for this article to have immediate effect, this article takes effect September 1, 2011.

Explanation: This change is necessary to identify procedures and requirements to ensure the security, validity, and efficiency of driver's licenses and personal identification certificates, to identify the potential cost savings, revenue issues, and other fiscal matters related to the issuance of license and certificates, to provide for authority for rules to specify the terms of licenses and certificates, and to validate certain rules previously adopted regarding driver's licenses and personal identification certificates.

(16) House Rule 13, Section 9(4) is suspended to permit the committee to add text on a matter not included in either version of the bill by adding proposed Article 72 to read as follows:

ARTICLE 72. FISCAL MATTERS CONCERNING LEASES OF PUBLIC
LAND FOR MINERAL DEVELOPMENT

SECTION 72.01. Subsections (a) and (c), Section 85.66, Education Code, are amended to read as follows:

(a) If oil or other minerals are developed on any of the lands leased by the board, the royalty or money as stipulated in the sale shall be paid to the general land office at Austin on or before the last day of each month for the preceding month during the life of the rights purchased, and shall be set aside ~~[in the state treasury]~~ as specified in Section 85.70 ~~[of this code]~~. The royalty or money paid to the general land office shall be accompanied by the sworn statement of the owner, manager, or other authorized agent showing the gross amount of oil, gas, sulphur, mineral ore, and other minerals produced and saved since the last report, the amount of oil, gas, sulphur, mineral ore, and other minerals produced and sold off the premises, and the market value of the oil, gas, sulphur, mineral ore, and other minerals, together with a copy of all daily gauges, or vats, tanks, gas meter readings, pipeline receipts, gas line receipts and other checks and memoranda of the amounts produced and put into pipelines, tanks, vats, or pool and gas lines, gas storage, other places of storage, and other means of transportation.

(c) The commissioner of the general land office shall tender to the board on or before the 10th day of each month a report of all receipts that are collected from the lease or sale of oil, gas, sulphur, mineral ore, and other minerals and that are deposited ~~[turned into the state treasury,]~~ as provided by Section 85.70 during ~~[of this code, of]~~ the preceding month.

SECTION 72.02. Section 85.69, Education Code, is amended to read as follows:

Sec. 85.69. PAYMENTS; DISPOSITION. Payments under this subchapter shall be made to the commissioner of the general land office at Austin, who shall transmit to the board ~~[comptroller]~~ all royalties, lease fees, rentals for delay in drilling or mining, and all other payments, including all filing assignments and relinquishment fees, to be deposited ~~[in the state treasury]~~ as provided by Section 85.70 ~~[of this code]~~.

SECTION 72.03. Section 85.70, Education Code, is amended to read as follows:

Sec. 85.70. CERTAIN MINERAL LEASES; DISPOSITION OF MONEY; SPECIAL FUNDS; INVESTMENT. (a) Except as provided by Subsection (c) ~~[of this section]~~, all money received under and by virtue of this subchapter shall be deposited in ~~[the state treasury to the credit of]~~ a special fund managed by the board to be known as The Texas A&M University System Special Mineral Investment Fund. Money in the fund is considered to be institutional funds, as defined by Section 51.009, of the system and its component institutions. The ~~[With the approval of the comptroller, the board of regents of The Texas A&M University System may appoint one or more commercial banks, depository trust companies, or other entities to serve as custodian or custodians of the Special Mineral Investment Fund's securities with authority to hold the money realized from those securities pending completion of an investment transaction if the money held is reinvested within one business day of receipt in investments determined by the board of regents. Money not reinvested within one business day of receipt shall be deposited in the state treasury not later than the fifth day after the date of receipt. In the judgment of the board, this]~~ special fund may be invested so as to produce ~~[an]~~ income which may be expended under the direction of the board for the general use of any component of The Texas A&M University System, including erecting permanent improvements and in payment of expenses incurred in connection with the administration of this subchapter. The unexpended income likewise may be invested as ~~[herein]~~ provided by this section.

(b) The income from the investment of the special mineral investment fund created by ~~[under]~~ Subsection (a) ~~[of this section]~~ shall be deposited in ~~[to the credit of]~~ a fund managed by the board to be known as The Texas A&M University System Special Mineral Income Fund, and is considered to be institutional funds, as defined by Section 51.009, of the system and its component institutions ~~[shall be appropriated by the legislature exclusively for the university system for the purposes herein provided]~~.

(c) The board shall lease for oil, gas, sulphur, or other mineral development, as prescribed by this subchapter, all or part of the land under the exclusive control of the board owned by the State of Texas and acquired for the use of Texas A&M University–Kingsville and its divisions. Any money received by the board concerning such land under this subchapter shall be deposited in ~~[the state treasury to the credit of]~~ a special fund managed by the board to be known as the Texas A&M University–Kingsville special mineral fund. Money in the fund is

considered to be institutional funds, as defined by Section 51.009, of the university and is[7] to be used exclusively for the university [Texas A&M University-Kingsville] and its branches and divisions. [Money may not be expended from this fund except as authorized by the general appropriations act.]

(d) All deposits in and investments of the fund under this section shall be made in accordance with Section 51.0031.

(e) Section 34.017, Natural Resources Code, does not apply to funds created by this section.

SECTION 72.04. Subsection (b), Section 95.36, Education Code, is amended to read as follows:

(b) Except as provided in Subsection (c) of this section, any money received by virtue of this section and the income from the investment of such money shall be deposited in [the State Treasury to the credit of] a special fund managed by the board to be known as the Texas State University System special mineral fund. Money in the fund is considered to be institutional funds, as defined by Section 51.009, of the system and its component institutions and is[7] to be used exclusively for those entities. All deposits in and investments of the fund shall be made in accordance with Section 51.0031. Section 34.017, Natural Resources Code, does not apply to the fund [the university system and the universities in the system. However, no money shall ever be expended from this fund except as authorized by the General Appropriations Act].

SECTION 72.05. Subsection (b), Section 109.61, Education Code, is amended to read as follows:

(b) Any money received by virtue of this section shall be deposited in [the state treasury to the credit of] a special fund managed by the board to be known as the Texas Tech University special mineral fund. Money in the fund is considered to be institutional funds, as defined by Section 51.009, of the university and is[7] to be used exclusively for the university and its branches and divisions. All deposits in and investments of the fund shall be made in accordance with Section 51.0031. Section 34.017, Natural Resources Code, does not apply to the fund. [However, no money shall ever be expended from this fund except as authorized by the general appropriations act.]

SECTION 72.06. Subsections (a) and (c), Section 109.75, Education Code, are amended to read as follows:

(a) If oil or other minerals are developed on any of the lands leased by the board, the royalty as stipulated in the sale shall be paid to the general land office in Austin on or before the last day of each month for the preceding month during the life of the rights purchased. The royalty payments shall be set aside [in the state treasury] as specified in Section 109.61 [of this code] and used as provided in that section.

(c) The commissioner of the general land office shall tender to the board on or before the 10th day of each month a report of all receipts that are collected from the lease or sale of oil, gas, sulphur, or other minerals and that are deposited in [turned into] the special fund as provided by Section 109.61 [in the state treasury] during the preceding month.

SECTION 72.07. Subsection (b), Section 109.78, Education Code, is amended to read as follows:

(b) Payment of all royalties, lease fees, rentals for delay in drilling or mining, filing fees for assignments and relinquishments, and all other payments shall be made to the commissioner of the general land office at Austin. The commissioner shall transmit all payments received to the board ~~comptroller~~ for deposit to the credit of the Texas Tech University special mineral fund as provided by Section 109.61.

SECTION 72.08. Section 85.72, Education Code, is repealed.

SECTION 72.09. This article takes effect September 1, 2011.

Explanation: This change is necessary to provide for certain mineral income for the Texas A&M University System, Texas Tech University, and the Texas State University System to be treated similarly to mineral income for other institutions of higher education.

(17) House Rule 13, Section 9(4) is suspended to permit the committee to add text on a matter not included in either version of the bill by adding proposed Article 73 to read as follows:

ARTICLE 73. FOUNDATION SCHOOL PROGRAM FINANCING; CERTAIN TAX INCREMENT FUND REPORTING MATTERS

SECTION 73.01. (a) This section applies only to a school district that, before May 1, 2011, received from the commissioner of education a notice of a reduction in state funding for the 2004-2005, 2005-2006, 2006-2007, 2007-2008, and 2008-2009 school years based on the district's reporting related to deposits of taxes into a tax increment fund under Chapter 311, Tax Code.

(b) Notwithstanding any other law, including Section 42.302(b)(2), Education Code, the commissioner of education shall reduce by one-half the amounts of the reduction of entitlement amounts computed for purposes of adjusting entitlement amounts to account for taxes deposited into a tax increment fund for any of the school years described by Subsection (a) of this section.

(c) This section expires September 1, 2013.

Explanation: This change is necessary to provide for the proper adjustment of foundation school program entitlement amounts in cases of reductions resulting from tax increment fund deposit reporting for certain school years by certain school districts.

(18) House Rule 13, Section 9(4) is suspended to permit the committee to add text on a matter not included in either version of the bill by adding proposed Article 74 to the bill to read as follows:

ARTICLE 74. CRIMINAL BACKGROUND CHECKS FOR CERTAIN INTERSCHOLASTIC SPORTS OFFICIALS

SECTION 74.01. Subchapter D, Chapter 33, Education Code, is amended by adding Section 33.085 to read as follows:

Sec. 33.085. CRIMINAL BACKGROUND CHECKS FOR SPORTS OFFICIALS; COST RECOVERY. (a) In this section, "sports official" means a person who officiates, judges, or otherwise enforces contest rules in an official capacity for athletic competition. The term includes a referee, umpire, linesman, side judge, and back judge.

(b) The University Interscholastic League by rule may require a person to have a criminal background check conducted by the league as a precondition of acting as a sports official for interscholastic athletic competition.

(c) The University Interscholastic League may refuse to allow a person to act as a sports official for interscholastic athletic competition if a criminal background check conducted under league rules reveals a conviction of:

(1) an offense involving moral turpitude;

(2) an offense involving a form of sexual or physical abuse of a minor or student or other illegal conduct in which the victim is a minor or student;

(3) a felony offense involving the possession, transfer, sale, or distribution of or conspiracy to possess, transfer, sell, or distribute a controlled substance, as defined by Chapter 481, Health and Safety Code, or by 21 U.S.C. Section 801 et seq.;

(4) an offense involving the illegal transfer, appropriation, or use of school district funds or other district property; or

(5) an offense involving an attempt by fraudulent or unauthorized means to obtain or alter registration to serve as a sports official for interscholastic athletic competition.

(d) An interscholastic athletic league by rule may establish a cost recovery program to offset any costs the league incurs as a result of the implementation of this section.

Explanation: This change is necessary to provide for criminal background checks for certain sports officials for interscholastic athletic competition and for the recover costs associated with the program incurred by an interscholastic athletic league.

(19) House Rule 13, Section 9(4) is suspended to permit the committee to add text on a matter not included in either version of the bill by adding proposed Article 75 to the bill to read as follows:

ARTICLE 75. FISCAL MATTERS RELATING TO PUBLIC SCHOOL FINANCE

SECTION 75.01. Effective September 1, 2011, Section 12.106, Education Code, is amended by amending Subsection (a) and adding Subsection (a-3) to read as follows:

(a) A charter holder is entitled to receive for the open-enrollment charter school funding under Chapter 42 equal to the greater of:

(1) the percentage specified by Section 42.2516(i) multiplied by the amount of funding per student in weighted average daily attendance, excluding enrichment funding under Sections 42.302(a-1)(2) and (3), as they existed on January 1, 2009, that would have been received for the school during the 2009-2010 school year under Chapter 42 as it existed on January 1, 2009, and an additional amount of the percentage specified by Section 42.2516(i) multiplied by \$120 for each student in weighted average daily attendance; or

(2) the amount of funding per student in weighted average daily attendance, excluding enrichment funding under Section 42.302(a), to which the charter holder would be entitled for the school under Chapter 42 if the school were a school district without a tier one local share for purposes of Section 42.253 and without any local revenue for purposes of Section 42.2516.

(a-3) In determining funding for an open-enrollment charter school under Subsection (a), the commissioner shall apply the regular program adjustment factor provided under Section 42.101 to calculate the regular program allotment to which a charter school is entitled.

SECTION 75.02. Effective September 1, 2017, Subsection (a), Section 12.106, Education Code, is amended to read as follows:

(a) A charter holder is entitled to receive for the open-enrollment charter school funding under Chapter 42 equal to ~~the greater of:~~

~~[(1) the amount of funding per student in weighted average daily attendance, excluding enrichment funding under Sections 42.302(a) (2) and (3), as they existed on January 1, 2009, that would have been received for the school during the 2009-2010 school year under Chapter 42 as it existed on January 1, 2009, and an additional amount of \$120 for each student in weighted average daily attendance; or~~

~~[(2)] the amount of funding per student in weighted average daily attendance, excluding enrichment funding under Section 42.302(a), to which the charter holder would be entitled for the school under Chapter 42 if the school were a school district without a tier one local share for purposes of Section 42.253 [and without any local revenue for purposes of Section 42.2516].~~

SECTION 75.03. Effective September 1, 2011, Section 21.402, Education Code, is amended by amending Subsections (a), (b), (c), and (c-1) and adding Subsection (i) to read as follows:

(a) Except as provided by Subsection (d) ~~[(e)]~~ or (f), a school district must pay each classroom teacher, full-time librarian, full-time counselor certified under Subchapter B, or full-time school nurse not less than the minimum monthly salary, based on the employee's level of experience in addition to other factors, as determined by commissioner rule, determined by the following formula:

$$MS = SF \times FS$$

where:

"MS" is the minimum monthly salary;

"SF" is the applicable salary factor specified by Subsection (c); and

"FS" is the amount, as determined by the commissioner under Subsection (b), of the basic allotment as provided by Section 42.101 (a) or (b) for a school district with a maintenance and operations tax rate at least equal to the state maximum compressed tax rate, as defined by Section 42.101 (a) [state and local funds per weighted student, including funds provided under Section 42.2516, available to a district eligible to receive state assistance under Section 42.302 with a maintenance and operations tax rate per \$100 of taxable value equal to the product of the state compression percentage, as determined under Section 42.2516, multiplied by \$1.50, except that the amount of state and local funds per

~~weighted student does not include the amount attributable to the increase in the guaranteed level made by Chapter 1187, Acts of the 77th Legislature, Regular Session, 2001].~~

(b) Not later than June 1 of each year, the commissioner shall determine the basic allotment and resulting monthly salaries to be paid by school districts as provided by Subsection (a) ~~[amount of state and local funds per weighted student available, for purposes of Subsection (a), to a district described by that subsection for the following school year].~~

(c) The salary factors per step are as follows:

Years Experi ence	0	1	2	3	4	
Salary Factor	<u>.5464</u>	[.622 <u>.5582</u>	[.636 <u>.5698</u>	[.649 <u>.5816</u>	[.662 <u>.6064</u>	[.690
		6]	0]	2]	7]	9]
Years Experi ence	5	6	7	8	9	
Salary Factor	<u>.6312</u>	[.719 <u>.6560</u>	[.747 <u>.6790</u>	[.773 <u>.7008</u>	[.798 <u>.7214</u>	[.822
		2]	4]	7]	5]	0]
Years Experi ence	10	11	12	13	14	
Salary Factor	<u>.7408</u>	[.844 <u>.7592</u>	[.865 <u>.7768</u>	[.885 <u>.7930</u>	[.903 <u>.8086</u>	[.921
		4]	0]	4]	5]	3]
Years Experi ence	15	16	17	18	19	
Salary Factor	<u>.8232</u>	[.938 <u>.8372</u>	[.953 <u>.8502</u>	[.968 <u>.8626</u>	[.982 <u>.8744</u>	[.996
		0]	9]	7]	8]	3]
Years Experi ence	20 and over					
Salary Factor	<u>.8854</u>	[1.00				
		9]				

(c-1) Notwithstanding Subsections ~~[Subsection]~~ (a) and (b), ~~[for the 2009-2010 and 2010-2011 school years]~~, each school district shall pay a monthly salary to ~~[increase the monthly salary of]~~ each classroom teacher, full-time speech pathologist, full-time librarian, full-time counselor certified under Subchapter B,

and full-time school nurse that is at least equal to the following monthly salary or the monthly salary determined by the commissioner under Subsections (a) and (b), whichever is [by the] greater [of]:

<u>Years of Experience</u>	<u>Monthly Salary</u>
0	2,732
1	2,791
2	2,849
3	2,908
4	3,032
5	3,156
6	3,280
7	3,395
8	3,504
9	3,607
10	3,704
11	3,796
12	3,884
13	3,965
14	4,043
15	4,116
16	4,186
17	4,251
18	4,313
19	4,372
<u>20 & Over</u>	<u>4,427</u>

[(1) \$80; or

[(2) the maximum uniform amount that, when combined with any resulting increases in the amount of contributions made by the district for social security coverage for the specified employees or by the district on behalf of the specified employees under Section 825.405, Government Code, may be provided using an amount equal to the product of \$60 multiplied by the number of students in weighted average daily attendance in the school during the 2009-2010 school year.]

(i) Not later than January 1, 2013, the commissioner shall submit to the governor, the lieutenant governor, the speaker of the house of representatives, and the presiding officer of each legislative standing committee with primary jurisdiction over primary and secondary education a written report that evaluates and provides recommendations regarding the salary schedule. This subsection expires September 1, 2013.

SECTION 75.04. Effective September 1, 2017, Section 21.402, Education Code, is amended by amending Subsection (a) and adding Subsection (e-1) to read as follows:

(a) Except as provided by Subsection (d), ~~(e-1) [(e)]~~, or (f), a school district must pay each classroom teacher, full-time librarian, full-time counselor certified under Subchapter B, or full-time school nurse not less than the minimum monthly salary, based on the employee's level of experience in addition to other factors, as determined by commissioner rule, determined by the following formula:

$$MS = SF \times FS$$

where:

"MS" is the minimum monthly salary;

"SF" is the applicable salary factor specified by Subsection (c); and

"FS" is the amount, as determined by the commissioner under Subsection (b), of the basic allotment as provided by Section 42.101(a) or (b) for a school district with a maintenance and operation tax rate at least equal to the state maximum compressed tax rate, as defined by Section 42.101(a) [state and local funds per weighted student, including funds provided under Section 42.2516, available to a district eligible to receive state assistance under Section 42.302 with a maintenance and operations tax rate per \$100 of taxable value equal to the product of the state compression percentage, as determined under Section 42.2516, multiplied by \$1.50, except that the amount of state and local funds per weighted student does not include the amount attributable to the increase in the guaranteed level made by Chapter 1187, Acts of the 77th Legislature, Regular Session 2004].

(e-1) If the minimum monthly salary determined under Subsection (a) for a particular level of experience is less than the minimum monthly salary for that level of experience in the preceding year, the minimum monthly salary is the minimum monthly salary for the preceding year.

SECTION 75.05. Subsection (a), Section 41.002, Education Code, is amended to read as follows:

(a) A school district may not have a wealth per student that exceeds:

(1) the wealth per student that generates the amount of maintenance and operations tax revenue per weighted student available to a district with maintenance and operations tax revenue per cent of tax effort equal to the maximum amount provided per cent under Section 42.101(a) or (b) [42.101], for the district's maintenance and operations tax effort equal to or less than the rate equal to the product of the state compression percentage, as determined under Section 42.2516, multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year;

(2) the wealth per student that generates the amount of maintenance and operations tax revenue per weighted student available to the Austin Independent School District, as determined by the commissioner in cooperation with the Legislative Budget Board, for the first six cents by which the district's maintenance and operations tax rate exceeds the rate equal to the product of the state compression percentage, as determined under Section 42.2516, multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year, subject to Section 41.093(b-1); or

(3) \$319,500, for the district's maintenance and operations tax effort that exceeds the first six cents by which the district's maintenance and operations tax effort exceeds the rate equal to the product of the state compression percentage, as determined under Section 42.2516, multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year.

SECTION 75.06. The heading to Section 42.101, Education Code, is amended to read as follows:

Sec. 42.101. BASIC AND REGULAR PROGRAM ALLOTMENTS [~~ALLOTMENT~~].

SECTION 75.07. Section 42.101, Education Code, is amended by amending Subsections (a) and (b) and adding Subsections (c) and (c-1) to read as follows:

(a) The basic [~~For each student in average daily attendance, not including the time students spend each day in special education programs in an instructional arrangement other than mainstream or career and technology education programs, for which an additional allotment is made under Subchapter C, a district is entitled to an~~] allotment is an amount equal to the lesser of \$4,765 or the amount that results from the following formula:

$$A = \$4,765 \times (\text{DCR/MCR})$$

where:

"A" is the resulting amount for [~~allotment to which~~] a district [~~is entitled~~];

"DCR" is the district's compressed tax rate, which is the product of the state compression percentage, as determined under Section 42.2516, multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year; and

"MCR" is the state maximum compressed tax rate, which is the product of the state compression percentage, as determined under Section 42.2516, multiplied by \$1.50.

(b) A greater amount for any school year for the basic allotment under Subsection (a) may be provided by appropriation.

(c) A school district is entitled to a regular program allotment equal to the amount that results from the following formula:

$$\text{RPA} = \text{ADA} \times \text{AA} \times \text{RPAF}$$

where:

"RPA" is the regular program allotment to which the district is entitled;

"ADA" is the number of students in average daily attendance in a district, not including the time students spend each day in special education programs in an instructional arrangement other than mainstream or career and technology education programs, for which an additional allotment is made under Subchapter C;

"AA" is the district's adjusted basic allotment, as determined under Section 42.102 and, if applicable, as further adjusted under Section 42.103; and

"RPAF" is the regular program adjustment factor, which is an amount established by appropriation.

(c-1) Notwithstanding Subsection (c), the regular program adjustment factor ("RPAF") is 0.9239 for the 2011-2012 school year and 0.98 for the 2012-2013 school year. This subsection expires September 1, 2013.

SECTION 75.08. Section 42.105, Education Code, is amended to read as follows:

Sec. 42.105. SPARSITY ADJUSTMENT. Notwithstanding Sections 42.101, 42.102, and 42.103, a school district that has fewer than 130 students in average daily attendance shall be provided a regular program ~~[an adjusted basic]~~ allotment on the basis of 130 students in average daily attendance if it offers a kindergarten through grade 12 program and has preceding or current year's average daily attendance of at least 90 students or is 30 miles or more by bus route from the nearest high school district. A district offering a kindergarten through grade 8 program whose preceding or current year's average daily attendance was at least 50 students or which is 30 miles or more by bus route from the nearest high school district shall be provided a regular program ~~[an adjusted basic]~~ allotment on the basis of 75 students in average daily attendance. An average daily attendance of 60 students shall be the basis of providing the regular program ~~[adjusted basic]~~ allotment if a district offers a kindergarten through grade 6 program and has preceding or current year's average daily attendance of at least 40 students or is 30 miles or more by bus route from the nearest high school district.

SECTION 75.09. Subsection (a), Section 42.251, Education Code, is amended to read as follows:

(a) The sum of the regular program ~~[basic]~~ allotment under Subchapter B and the special allotments under Subchapter C, computed in accordance with this chapter, constitute the tier one allotments. The sum of the tier one allotments and the guaranteed yield allotments under Subchapter F, computed in accordance with this chapter, constitute the total cost of the Foundation School Program.

SECTION 75.10. Subchapter E, Chapter 42, Education Code, is amended by adding Section 42.2514 to read as follows:

Sec. 42.2514. ADDITIONAL STATE AID FOR TAX INCREMENT FINANCING PAYMENTS. For each school year, a school district, including a school district that is otherwise ineligible for state aid under this chapter, is entitled to state aid in an amount equal to the amount the district is required to pay into the tax increment fund for a reinvestment zone under Section 311.013(n), Tax Code.

SECTION 75.11. Effective September 1, 2011, Section 42.2516, Education Code, is amended by amending Subsections (a), (b), (d), and (f-2) and adding Subsection (i) to read as follows:

(a) In this title ~~[section]~~, "state compression percentage" means the percentage~~[-, as determined by the commissioner,]~~ of a school district's adopted maintenance and operations tax rate for the 2005 tax year that serves as the basis for state funding ~~[for tax rate reduction under this section]~~. If the state compression percentage is not established by appropriation for a school year, the ~~[The]~~ commissioner shall determine the state compression percentage for each school year based on the percentage by which a district is able to reduce the

district's maintenance and operations tax rate for that year, as compared to the district's adopted maintenance and operations tax rate for the 2005 tax year, as a result of state funds appropriated for distribution under this section for that year from the property tax relief fund established under Section 403.109, Government Code, or from another funding source available for school district property tax relief.

(b) Notwithstanding any other provision of this title, a school district that imposes a maintenance and operations tax at a rate at least equal to the product of the state compression percentage multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year is entitled to at least the amount of state revenue necessary to provide the district with the sum of:

(1) the percentage specified by Subsection (i) of the amount, as calculated under Subsection (e), ~~[the amount]~~ of state and local revenue per student in weighted average daily attendance for maintenance and operations that the district would have received during the 2009-2010 school year under Chapter 41 and this chapter, as those chapters existed on January 1, 2009, at a maintenance and operations tax rate equal to the product of the state compression percentage for that year multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year;

(2) the percentage specified by Subsection (i) of an amount equal to the product of \$120 multiplied by the number of students in weighted average daily attendance in the district; and

(3) ~~[an amount equal to the amount the district is required to pay into the tax increment fund for a reinvestment zone under Section 311.013(n), Tax Code, in the current tax year; and~~

~~[(4)]~~ any amount to which the district is entitled under Section 42.106.

(d) In determining the amount to which a district is entitled under Subsection (b)(1), the commissioner shall:

(1) include the percentage specified by Subsection (i) of any amounts received by the district during the 2008-2009 school year under Rider 86, page III-23, Chapter 1428 (HB 1), Acts of the 80th Legislature, Regular Session, 2007 (the General Appropriations Act); and

(2) for a school district that paid tuition under Section 25.039 during the 2008-2009 school year, reduce the amount to which the district is entitled by the amount of tuition paid during that school year.

(f-2) The rules adopted by the commissioner under Subsection (f-1) must:

(1) require the commissioner to determine, as if this section did not exist, the effect under Chapter 41 and this chapter of a school district's action described by Subsection (f-1)(1), (2), (3), or (4) on the total state revenue to which the district would be entitled or the cost to the district of purchasing sufficient attendance credits to reduce the district's wealth per student to the equalized wealth level; and

(2) require an increase or reduction in the amount of state revenue to which a school district is entitled under Subsection (b)(1) ~~[(b)]~~ that is substantially equivalent to any change in total state revenue or the cost of purchasing attendance credits that would apply to the district if this section did not exist.

(i) The percentage to be applied for purposes of Subsections (b)(1) and (2) and Subsection (d)(1) is 100.00 percent for the 2011-2012 school year and 92.35 percent for the 2012-2013 school year. For the 2013-2014 school year and each subsequent school year, the legislature by appropriation shall establish the percentage reduction to be applied.

SECTION 75.12. Effective September 1, 2017, the heading to Section 42.2516, Education Code, is amended to read as follows:

Sec. 42.2516. STATE COMPRESSION PERCENTAGE ~~[ADDITIONAL STATE AID FOR TAX REDUCTION]~~.

SECTION 75.13. Effective September 1, 2017, Subsection (a), Section 42.2516, Education Code, is amended to read as follows:

(a) In this title ~~[section]~~, "state compression percentage" means the percentage~~[- as determined by the commissioner]~~ of a school district's adopted maintenance and operations tax rate for the 2005 tax year that serves as the basis for state funding ~~[for tax rate reduction under this section]~~. If the state compression percentage is not established by appropriation for a school year, the ~~[The]~~ commissioner shall determine the state compression percentage for each school year based on the percentage by which a district is able to reduce the district's maintenance and operations tax rate for that year, as compared to the district's adopted maintenance and operations tax rate for the 2005 tax year, as a result of state funds appropriated for ~~[distribution under this section for]~~ that year from the property tax relief fund established under Section 403.109, Government Code, or from another funding source available for school district property tax relief.

SECTION 75.14. Effective September 1, 2011, Subsection (a), Section 42.25161, Education Code, is amended to read as follows:

(a) The commissioner shall provide South Texas Independent School District with the amount of state aid necessary to ensure that the district receives an amount of state and local revenue per student in weighted average daily attendance that is at least the percentage specified by Section 42.2516(i) of \$120 greater than the amount the district would have received per student in weighted average daily attendance during the 2009-2010 school year under this chapter, as it existed on January 1, 2009, at a maintenance and operations tax rate equal to the product of the state compression percentage multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year, provided that the district imposes a maintenance and operations tax at that rate.

SECTION 75.15. Subchapter E, Chapter 42, Education Code, is amended by adding Section 42.2525 to read as follows:

Sec. 42.2525. ADJUSTMENTS FOR CERTAIN DEPARTMENT OF DEFENSE DISTRICTS. The commissioner is granted the authority to ensure that Department of Defense school districts do not receive more than an eight percent reduction should the federal government reduce appropriations to those schools.

SECTION 75.16. Effective September 1, 2011, Subsections (h) and (i), Section 42.253, Education Code, are amended to read as follows:

(h) If the amount appropriated for the Foundation School Program for the second year of a state fiscal biennium is less than the amount to which school districts are entitled for that year, the commissioner shall certify the amount of the difference to the Legislative Budget Board not later than January 1 of the second year of the state fiscal biennium. The Legislative Budget Board shall propose to the legislature that the certified amount be transferred to the foundation school fund from the economic stabilization fund and appropriated for the purpose of increases in allocations under this subsection. If the legislature fails during the regular session to enact the proposed transfer and appropriation and there are not funds available under Subsection (j), the commissioner shall adjust ~~reduce~~ the total amounts due to each school district under this chapter and the total amounts necessary for each school district to comply with the requirements of Chapter 41 ~~[amount of state funds allocated to each district]~~ by an amount determined by applying to each district, including a district receiving funds under Section 42.2516, the same percentage adjustment so that the total amount of the adjustment to all districts ~~[a method under which the application of the same number of cents of increase in tax rate in all districts applied to the taxable value of property of each district, as determined under Subchapter M, Chapter 403, Government Code,]~~ results in an amount ~~[a total levy]~~ equal to the total adjustment necessary. A school district is not entitled to reimbursement in a subsequent fiscal year of the amount resulting from the adjustment authorized by this subsection ~~[reduction. The following fiscal year, a district's entitlement under this section is increased by an amount equal to the reduction made under this subsection].~~

(i) Not later than March 1 each year, the commissioner shall determine the actual amount of state funds to which each school district is entitled under the allocation formulas in this chapter for the current school year, as adjusted in accordance with Subsection (h), if applicable, and shall compare that amount with the amount of the warrants issued to each district for that year. If the amount of the warrants differs from the amount to which a district is entitled because of variations in the district's tax rate, student enrollment, or taxable value of property, the commissioner shall adjust the district's entitlement for the next fiscal year accordingly.

SECTION 75.17. Effective September 1, 2017, Subsection (h), Section 42.253, Education Code, is amended to read as follows:

(h) If the amount appropriated for the Foundation School Program for the second year of a state fiscal biennium is less than the amount to which school districts are entitled for that year, the commissioner shall certify the amount of the difference to the Legislative Budget Board not later than January 1 of the second year of the state fiscal biennium. The Legislative Budget Board shall propose to

the legislature that the certified amount be transferred to the foundation school fund from the economic stabilization fund and appropriated for the purpose of increases in allocations under this subsection. If the legislature fails during the regular session to enact the proposed transfer and appropriation and there are not funds available under Subsection (j), the commissioner shall adjust ~~[reduce]~~ the total amounts due to each school district under this chapter and the total amounts necessary for each school district to comply with the requirements of Chapter 41 ~~[amount of state funds allocated to each district]~~ by an amount determined by applying to each district the same percentage adjustment so that the total amount of the adjustment to all districts ~~[a method under which the application of the same number of cents of increase in tax rate in all districts applied to the taxable value of property of each district, as determined under Subchapter M, Chapter 403, Government Code,]~~ results in an amount ~~[a total levy]~~ equal to the total adjustment necessary. A school district is not entitled to reimbursement in a subsequent fiscal year of the amount resulting from the adjustment authorized by this subsection ~~[reduction. The following fiscal year, a district's entitlement under this section is increased by an amount equal to the reduction made under this subsection].~~

SECTION 75.18. Section 42.258, Education Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) If a school district has received an overallocation of state funds, the agency shall, by withholding from subsequent allocations of state funds for the current or subsequent school year or by requesting and obtaining a refund, recover from the district an amount equal to the overallocation.

(a-1) Notwithstanding Subsection (a), the agency may recover an overallocation of state funds over a period not to exceed the subsequent five school years if the commissioner determines that the overallocation was the result of exceptional circumstances reasonably caused by statutory changes to Chapter 41 or 46 or this chapter and related reporting requirements.

SECTION 75.19. Subsection (b), Section 42.260, Education Code, is amended to read as follows:

(b) For each year, the commissioner shall certify to each school district or participating charter school the amount of[+:

~~[(+)]~~ additional funds to which the district or school is entitled due to the increase made by **HB 3343**, Acts of the 77th Legislature, Regular Session, 2001, to:

~~(1) [(A)]~~ the equalized wealth level under Section 41.002; or

~~(2) [(B)]~~ the guaranteed level of state and local funds per weighted student per cent of tax effort under Section 42.302~~[-or~~

~~[(2) additional state aid to which the district or school is entitled under Section 42.2513].~~

SECTION 75.20. Section 44.004, Education Code, is amended by adding Subsection (g-1) to read as follows:

(g-1) If the rate calculated under Subsection (c)(5)(A)(ii)(b) decreases after the publication of the notice required by this section, the president is not required to publish another notice or call another meeting to discuss and adopt the budget and the proposed lower tax rate.

SECTION 75.21. Subsection (a), Section 26.05, Tax Code, is amended to read as follows:

(a) The governing body of each taxing unit, before the later of September 30 or the 60th day after the date the certified appraisal roll is received by the taxing unit, shall adopt a tax rate for the current tax year and shall notify the assessor for the unit of the rate adopted. The tax rate consists of two components, each of which must be approved separately. The components are:

(1) for a taxing unit other than a school district, the rate that, if applied to the total taxable value, will impose the total amount published under Section 26.04(e)(3)(C), less any amount of additional sales and use tax revenue that will be used to pay debt service, or, for a school district, the rate calculated ~~published~~ under Section 44.004(c)(5)(A)(ii)(b), Education Code; and

(2) the rate that, if applied to the total taxable value, will impose the amount of taxes needed to fund maintenance and operation expenditures of the unit for the next year.

SECTION 75.22. Effective September 1, 2017, Subsection (i), Section 26.08, Tax Code, is amended to read as follows:

(i) For purposes of this section, the effective maintenance and operations tax rate of a school district is the tax rate that, applied to the current total value for the district, would impose taxes in an amount that, when added to state funds that would be distributed to the district under Chapter 42, Education Code, for the school year beginning in the current tax year using that tax rate, ~~[including state funds that will be distributed to the district in that school year under Section 42.2516, Education Code,]~~ would provide the same amount of state funds distributed under Chapter 42, Education Code, ~~[including state funds distributed under Section 42.2516, Education Code,]~~ and maintenance and operations taxes of the district per student in weighted average daily attendance for that school year that would have been available to the district in the preceding year if the funding elements for Chapters 41 and 42, Education Code, for the current year had been in effect for the preceding year.

SECTION 75.23. Subsection (n), Section 311.013, Tax Code, is amended to read as follows:

(n) This subsection applies only to a school district whose taxable value computed under Section 403.302(d), Government Code, is reduced in accordance with Subdivision (4) of that subsection. In addition to the amount otherwise required to be paid into the tax increment fund, the district shall pay into the fund an amount equal to the amount by which the amount of taxes the district would have been required to pay into the fund in the current year if the district levied taxes at the rate the district levied in 2005 exceeds the amount the district is otherwise required to pay into the fund in the year of the reduction. This additional amount may not exceed the amount the school district receives in state aid for the current tax year under Section 42.2514, Education Code. The school

district shall pay the additional amount after the district receives the state aid to which the district is entitled for the current tax year under Section 42.2514, Education Code.

SECTION 75.24. Effective September 1, 2011, the following provisions of the Education Code are repealed:

- (1) Subsections (c-2), (c-3), and (e), Section 21.402;
- (2) Section 42.008; and
- (3) Subsections (a-1) and (a-2), Section 42.101.

SECTION 75.25. (a) Effective September 1, 2017, the following provisions of the Education Code are repealed:

- (1) Section 41.0041;
- (2) Subsections (b), (b-1), (b-2), (c), (d), (e), (f), (f-1), (f-2), (f-3), and (i), Section 42.2516;
- (3) Section 42.25161;
- (4) Subsection (c), Section 42.2523;
- (5) Subsection (g), Section 42.2524;
- (6) Subsection (c-1), Section 42.253; and
- (7) Section 42.261.

(b) Effective September 1, 2017, Subsections (i-1) and (j), Section 26.08, Tax Code, are repealed.

SECTION 75.26. (a) The speaker of the house of representatives and the lieutenant governor shall establish a joint legislative interim committee to conduct a comprehensive study of the public school finance system in this state.

(b) Not later than January 15, 2013, the committee shall make recommendations to the 83rd Legislature regarding changes to the public school finance system.

(c) The committee is dissolved September 1, 2013.

SECTION 75.27. It is the intent of the legislature, between fiscal year 2014 and fiscal year 2018, to continue to reduce the amount of Additional State Aid For Tax Reduction (ASATR) to which a school district is entitled under Section 42.2516, Education Code, and to increase the basic allotment to which a school district is entitled under Section 42.101, Education Code.

SECTION 75.28. Except as otherwise provided by this Act, the changes in law made by this Act to Chapter 42, Education Code, apply beginning with the 2011-2012 school year.

SECTION 75.29. The change in law made by Subsection (g-1), Section 44.004, Education Code, as added by this Act, applies beginning with adoption of a tax rate for the 2011 tax year.

Explanation: This change is necessary to adjust state aid payments to school districts and open-enrollment charter schools to the level of Foundation School Program appropriations made in **HB 1**, Acts of the 82nd Legislature, Regular Session, 2011.

HR 2723 - POINT OF ORDER

Representative Dutton raised a point of order against further consideration of **HR 2723** under Rule 13, Section 9 of the House Rules on the grounds that the text of the bill that was not in disagreement between the two houses was changed.

LEAVES OF ABSENCE GRANTED

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

Burnam on motion of T. Smith.

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

Miles on motion of Farrar.

HR 2723 - (consideration continued)

The speaker overruled the point of order.

HR 2723 was adopted by (Record 1711): 92 Yeas, 51 Nays, 1 Present, not voting.

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

Nays — Allen; Alonzo; Alvarado; Anchia; Bonnen; Castro; Coleman; Davis, Y.; Dukes; Dutton; Eiland; Farias; Farrar; Gallego; Giddings; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hamilton; Harless; Hartnett; Hernandez Luna; Hochberg; Howard, D.; Hughes; Johnson; King, T.; Lozano; Lucio; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Muñoz; Naishtat; Oliveira; Pickett; Raymond; Reynolds; Rodriguez; Simpson; Strama; Thompson; Turner; Veasey; Villarreal; Vo; Walle.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Burnam; Miles.

Absent — Deshotel; Fletcher; Riddle; Torres.

SB 1811 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Pitts submitted the conference committee report on **SB 1811**.

SB 1811 - POINT OF ORDER

Representative Martinez Fischer raised a point of order against further consideration of **SB 1811** under Rule 13, Section 9(a)(2) of the House Rules on the grounds that the bill omitted text that was not in disagreement between the two houses.

The speaker overruled the point of order.

SB 1811 - POINT OF ORDER

Representative Martinez Fischer raised a point of order against further consideration of **SB 1811** under Rule 13, Section 9(a)(2) of the House Rules on the grounds that the bill omitted text that was not in disagreement between the two houses.

The speaker overruled the point of order.

SB 1811 - POINT OF ORDER

Representative Walle raised a point of order against further consideration of **SB 1811** under Rule 8, Section 3 of the House Rules and under Article III, Section 35 of the Texas Constitution on the grounds that the bill contains more than one subject.

The speaker overruled the point of order.

SB 1811 - POINT OF ORDER

Representative Martinez raised a point of order against further consideration of **SB 1811**.

The speaker overruled the point of order.

(Keffer in the chair)

SB 1811 - POINT OF ORDER

Representative Farrar raised a point of order against further consideration of **SB 1811** under Rule 13, Section 10(d) of the House Rules on the grounds that a tax equity note was not submitted.

The chair overruled the point of order.

(Speaker in the chair)

Representative Pitts moved to adopt the conference committee report on **SB 1811**.

The motion to adopt the conference committee report on **SB 1811** prevailed by (Record 1712): 84 Yeas, 63 Nays, 1 Present, not voting.

Yeas — Aliseda; Anderson, C.; Aycock; Beck; Berman; Bohac; Branch; Brown; Burkett; Button; Callegari; Chisum; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Driver; Eissler; Elkins; Fletcher; Frullo; Garza; Geren; Gonzales, L.; Gooden; Hancock; Hardcastle; Harper-Brown; Hartnett; Hilderbran; Hopson; Howard, C.; Huberty; Hunter; Isaac; Jackson; Keffer; King, P.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Margo; Miller, D.; Miller, S.; 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.; Torres; Weber; Woolley; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Anchia; Anderson, R.; Bonnen; Cain; Carter; Castro; Christian; Coleman; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Farias; Farrar; Flynn; Gallego; Giddings; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hamilton; Harless; Hernandez Luna; Hochberg; Howard, D.; Hughes;

Johnson; King, S.; King, T.; Lozano; Lucio; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Morrison; Muñoz; Naishtat; Oliveira; Peña; Pickett; Quintanilla; Raymond; Reynolds; Rodriguez; Simpson; Strama; Taylor, V.; Thompson; Truitt; Turner; Veasey; Villarreal; Vo; Walle; White.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Burnam; Miles.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1712. I intended to vote no.

Brown

I was shown voting yes on Record No. 1712. I intended to vote no.

Hilderbran

REASON FOR VOTE

The conference committee report for **SB 1811**, though not the best permanent solution for school finance, does contain provisions that I feel are necessary for Texas at this point in time. First and foremost, I have been assured that during the interim the House Committee on Education will take up the difficult task of addressing school finance and how best to remedy the current inequities in school funding that exist in Texas. Additionally, the conference committee report for **SB 1811** extends the \$1 million benefit for small business. At this point in our economic recovery, small business should not be burdened with additional taxes, but rather it should be given every opportunity to help bring this great state out of the current economic downturn. Finally, I voted for this conference committee report because it does not contain any speed up on taxes, which again would burden small business at a time in which they need to be given the green light to achieve, not the red light that would impede the much needed prosperity that, through business friendly policy, will continue to maintain Texas' economic superiority.

Legler

NOTICE GIVEN

Pursuant to Rule 14, Section 4 of the House Rules, the speaker, at 9:13 p.m., gave notice that he would recognize Representative Bonnen to make a motion to suspend Rule 8, Section 13 of the House Rules and all necessary rules to consider items remaining on today's items eligible lists after the midnight deadline for consideration.

HR 2654 - ADOPTED (by Coleman)

The following privileged resolution was laid before the house:

HR 2654

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 3275** (the operation and governance of tax increment financing reinvestment zones, the creation of renewable energy reinvestment zones, and the governance of certain special districts) 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 1. Sections 311.006(a) and (b), Tax Code, are amended to read as follows:

(a) A municipality may not designate ~~create~~ a reinvestment zone if:

(1) more than 30 ~~40~~ percent of the property in the proposed zone, excluding property that is publicly owned, is used for residential purposes; or

(2) the total appraised value of taxable real property in the proposed zone and in existing reinvestment zones exceeds:

(A) 25 ~~20~~ percent of the total appraised value of taxable real property in the municipality and in the industrial districts created by the municipality, if the municipality has a population of 100,000 or more ~~is the county seat of a county~~:

~~[(i) that is adjacent to a county with a population of 3.3 million or more; and~~

~~[(ii) in which a planned community is located that has 20,000 or more acres of land, that was originally established under the Urban Growth and New Community Development Act of 1970 (42 U.S.C. Section 4501 et seq.); and that is subject to restrictive covenants containing ad valorem or annual variable budget-based assessments on real property]; or~~

(B) 50 ~~45~~ percent of the total appraised value of taxable real property in the municipality and in the industrial districts created by the municipality, if ~~[Paragraph (A) does not apply to]~~ the municipality has a population of less than 100,000.

(b) A municipality may not change the boundaries of an existing reinvestment zone to include property in excess of the restrictions on composition of a zone described by Subsection (a) [more than 10 percent of which, excluding property dedicated to public use, is used for residential purposes or to include more than 15 percent of the total appraised value of taxable real property in the municipality and in the industrial districts created by the municipality].

SECTION 8. Section 3815.051(a), Special District Local Laws Code, is amended to read as follows:

(a) The district is governed by a board of 17 ~~24~~ directors who serve staggered terms of four years, with eight ~~10~~ directors' terms expiring June 1 of an odd-numbered year and nine ~~11~~ directors' terms expiring June 1 of the following odd-numbered year.

SECTION 9. Subchapter B, Chapter 3815, Special District Local Laws Code, is amended by adding Section 3815.055 to read as follows:

Sec. 3815.055. INTERIM DIRECTORS. (a) The board serving on September 1, 2011, is abolished and is replaced by an interim board consisting of the following directors:

<u>No.</u>	<u>Pos.</u>	<u>Name of Director</u>
<u>1</u>		<u>Alan D. Bergeron</u>
<u>2</u>		<u>Sharone Mayberry</u>
<u>3</u>		<u>James Donatto Sr.</u>
<u>4</u>		<u>Hexser J. Holliday II</u>
<u>5</u>		<u>Osama Abdullatif</u>
<u>6</u>		<u>Skye Thompson</u>
<u>7</u>		<u>Asmara Tekle Johnson</u>
<u>8</u>		<u>Jaa St. Julien</u>
<u>9</u>		<u>Jimmy Arnold</u>
<u>10</u>		<u>Cyeoni Miles</u>
<u>11</u>		<u>Zinetta A. Burney</u>
<u>12</u>		<u>Chris Hageney</u>
<u>13</u>		<u>Teddy A. McDavid</u>
<u>14</u>		<u>Brian G. Smith</u>
<u>15</u>		<u>Robert S. Muhammad</u>
<u>16</u>		<u>Robert C. Combre</u>
<u>17</u>		<u>Janice M. Sibley-Reid</u>

(b) The terms of the interim directors expire June 1, 2015.

(c) The mayor and the members of the governing body of the City of Houston shall appoint successor directors not later than June 1, 2015, and shall stagger the terms of the directors, with eight of the directors' terms expiring June 1, 2017, and the remaining directors' terms expiring June 1, 2019.

(d) This section expires September 1, 2015.

SECTION 10. Notwithstanding **HB 2853**, Acts of the 82nd Legislature, Regular Session, 2011, Section 311.011(h), Tax Code, as added by that Act, does not take effect. This section prevails over **HB 2853**, Acts of the 82nd Legislature, Regular Session, 2011, or any other conflicting Act of the 82nd Legislature, Regular Session, 2011, regardless of the relative dates of enactment.

Explanation: The changes are necessary to allow a municipality to designate a tax increment financing reinvestment zone that encompasses additional area or change the boundaries of an existing zone to encompass additional area; to modify the composition of the board of directors of a particular special district and provide for the appointment and terms of directors of that district; and to provide that Section 311.011(h), Tax Code, as added by **HB 2853**, Acts of the 82nd Legislature, Regular Session, 2011, which relates to considering as estimates the amounts contained in the project plan or reinvestment zone financing plan for a tax increment financing reinvestment zone, does not take effect.

HR 2654 was adopted by (Record 1713): 134 Yeas, 6 Nays, 1 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Castro; 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; 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, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Lavender; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miller, D.; Miller, S.; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Chisum; Davis, S.; Legler; Perry; Phillips; Truitt.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Burnam; Miles.

Absent — Christian; Giddings; King, P.; Laubenberg; Morrison; Sheets; Turner.

HB 3275 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Coleman submitted the following conference committee report on **HB 3275**:

Austin, Texas, May 28, 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 3275** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Ellis
West
Jackson
Watson

On the part of the senate

Coleman
Y. Davis
J. Davis
Murphy
Huberty

On the part of the house

HB 3275, A bill to be entitled An Act relating to the operation and governance of tax increment financing reinvestment zones, the creation of renewable energy reinvestment zones, and the governance of certain special districts.

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

SECTION 1. Sections 311.006(a) and (b), Tax Code, are amended to read as follows:

(a) A municipality may not designate ~~create~~ a reinvestment zone if:

(1) more than 30 ~~40~~ percent of the property in the proposed zone, excluding property that is publicly owned, is used for residential purposes; or

(2) the total appraised value of taxable real property in the proposed zone and in existing reinvestment zones exceeds:

(A) 25 ~~20~~ percent of the total appraised value of taxable real property in the municipality and in the industrial districts created by the municipality, if the municipality has a population of 100,000 or more ~~is the county seat of a county~~;

~~[(i) that is adjacent to a county with a population of 3.3 million or more; and~~

~~[(ii) in which a planned community is located that has 20,000 or more acres of land, that was originally established under the Urban Growth and New Community Development Act of 1970 (42 U.S.C. Section 4501 et seq.), and that is subject to restrictive covenants containing ad valorem or annual variable budget based assessments on real property]; or~~

(B) 50 ~~45~~ percent of the total appraised value of taxable real property in the municipality and in the industrial districts created by the municipality, if ~~[Paragraph (A) does not apply to]~~ the municipality has a population of less than 100,000.

(b) A municipality may not change the boundaries of an existing reinvestment zone to include property in excess of the restrictions on composition of a zone described by Subsection (a) ~~[more than 10 percent of which, excluding property dedicated to public use, is used for residential purposes or to include more than 15 percent of the total appraised value of taxable real property in the municipality and in the industrial districts created by the municipality].~~

SECTION 2. Section 311.009, Tax Code, is amended by amending Subsection (a) and adding Subsection (h) to read as follows:

(a) Except as provided by Subsection (b), the board of directors of a reinvestment zone consists of at least five and not more than 15 members, unless more than 15 members are required to satisfy the requirements of this subsection. Each taxing unit other than the municipality or county that created the zone that levies taxes on real property in the zone may appoint one member of the board if the taxing unit has approved the payment of all or part of the tax increment produced by the unit into the tax increment fund for the zone. A unit may waive its right to appoint a director. The governing body of the municipality or county that created the zone may appoint not more than 10 directors to the board; except that if there are fewer than five directors appointed by taxing units other than the

municipality or county, the governing body of the municipality or county may appoint more than 10 members as long as the total membership of the board does not exceed 15.

(h) Notwithstanding any other provision of this section and in addition to the individuals authorized to serve on the board of directors of a zone under this section, a member of the state senate in whose district a zone is wholly or partly located, or a member of the state house of representatives in whose district a zone is wholly or partly located, may serve as an ex officio nonvoting member of the board or may designate another individual to serve in the member's place at the pleasure of the member. This subsection does not apply to the member of the state senate and the member of the state house of representatives who are members of the board as provided by Subsection (b), if applicable.

SECTION 3. Section 311.0091, Tax Code, is amended by amending Subsection (f) and adding Subsections (i) and (j) to read as follows:

(f) Except as provided by Subsection (i), to [To] be eligible for appointment to the board, an individual must:

- (1) be a qualified voter of the municipality; or
- (2) be at least 18 years of age and own real property in the zone or be an employee or agent of a person that owns real property in the zone.

(i) The eligibility criteria for appointment to the board specified by Subsection (f) do not apply to an individual appointed by a conservation and reclamation district:

- (1) created under Section 59, Article XVI, Texas Constitution; and
- (2) the jurisdiction of which covers four counties.

(j) Notwithstanding any other provision of this section and in addition to the individuals authorized to serve on the board of directors of a zone under this section, a member of the state senate in whose district a zone is wholly or partly located, or a member of the state house of representatives in whose district a zone is wholly or partly located, may serve as an ex officio nonvoting member of the board or may designate another individual to serve in the member's place at the pleasure of the member. This subsection does not apply to the member of the state senate and the member of the state house of representatives who are members of the board as provided by Subsection (c), if applicable.

SECTION 4. Section 311.013(l), Tax Code, is amended to read as follows:

(l) The governing body of a municipality or county that designates an area as a reinvestment zone may determine, in the designating ordinance or order adopted under Section 311.003 or in the ordinance or order adopted under Section 311.011 approving the reinvestment zone financing plan for the zone, the portion of the tax increment produced by the municipality or county that the municipality or county is required to pay into the tax increment fund for the zone. If a municipality or county does not determine the portion of the tax increment produced by the municipality or county that the municipality or county is required to pay into the tax increment fund for a reinvestment zone, the municipality or county is required to pay into the fund for the zone the entire tax increment produced by the municipality or county, except as provided by Subsection (b)(1).

SECTION 5. Section 311.016(a), Tax Code, is amended to read as follows:

(a) On or before the 150th ~~[90th]~~ day following the end of the fiscal year of the municipality or county, the governing body of a municipality or county shall submit to the chief executive officer of each taxing unit that levies property taxes on real property in a reinvestment zone created by the municipality or county a report on the status of the zone. The report must include:

(1) the amount and source of revenue in the tax increment fund established for the zone;

(2) the amount and purpose of expenditures from the fund;

(3) the amount of principal and interest due on outstanding bonded indebtedness;

(4) the tax increment base and current captured appraised value retained by the zone; and

(5) the captured appraised value shared by the municipality or county and other taxing units, the total amount of tax increments received, and any additional information necessary to demonstrate compliance with the tax increment financing plan adopted by the governing body of the municipality or county.

SECTION 6. Subtitle B, Title 3, Tax Code, is amended by adding Chapter 314 to read as follows:

CHAPTER 314. RENEWABLE ENERGY REINVESTMENT ZONES

Sec. 314.001. SHORT TITLE. This chapter may be cited as the Renewable Energy Reinvestment Zone Act.

Sec. 314.002. APPLICABILITY. The provisions of this chapter applicable to a municipality apply only to a municipality that:

(1) has a population of at least 45,000 but not more than 60,000;

(2) is located in a county with a population of at least one million; and

(3) does not contain within its corporate limits:

(A) more than two school districts that are categorized as category

II school districts under Section 313.022; or

(B) any school districts to which Subchapter C, Chapter 313, applies.

Sec. 314.003. DEFINITION. In this chapter, "renewable energy company" means a business organization that manufactures, assembles, sells, maintains, or conducts research on renewable energy and renewable energy efficient products, including:

(1) solar energy;

(2) wind energy;

(3) biomass energy;

(4) geothermal energy;

(5) battery technology;

(6) electric vehicles;

(7) lighting using light-emitting diodes;

(8) fuel cells;

(9) energy generated from agricultural sources;

(10) nuclear energy;

- (11) clean coal technology; and
- (12) water-saving devices.

Sec. 314.004. ELIGIBILITY OF MUNICIPALITY TO PARTICIPATE IN TAX ABATEMENT. (a) A municipality may not enter into a tax abatement agreement under this chapter and the governing body of a municipality may not designate an area as a renewable energy reinvestment zone unless the governing body adopts a resolution stating that the municipality elects to become eligible to participate in tax abatement and establishes guidelines and criteria governing tax abatement agreements by the municipality. The guidelines and criteria applicable to property must provide for the availability of tax abatement only for new facilities or structures.

(b) The governing body of a municipality may not enter into a tax abatement agreement under this chapter unless it finds that the terms of the agreement and the property subject to the agreement meet the applicable guidelines and criteria adopted by the governing body under this section.

(c) The guidelines and criteria adopted under this section are effective for two years from the date adopted. During that period, the guidelines and criteria may be amended or repealed only by a vote of three-fourths of the members of the governing body.

(d) The adoption of the guidelines and criteria by the governing body of a municipality does not:

(1) limit the discretion of the governing body to decide whether to enter into a specific tax abatement agreement;

(2) limit the discretion of the governing body to delegate to its employees the authority to determine whether or not the governing body should consider a particular application or request for tax abatement; or

(3) create any property, contract, or other legal right in any person to have the governing body consider or grant a specific application or request for tax abatement.

Sec. 314.005. DESIGNATION OF ZONE. (a) The governing body of a municipality by ordinance may designate as a renewable energy reinvestment zone an area in the taxing jurisdiction or extraterritorial jurisdiction of the municipality that the governing body finds satisfies the requirements of Section 314.006.

(b) The ordinance must describe the boundaries of the zone.

(c) The governing body may not adopt an ordinance designating an area as a renewable energy reinvestment zone until the governing body has held a public hearing on the designation and has found that the improvements sought are feasible and practical and would be a benefit to the land to be included in the zone and to the municipality after the expiration of an agreement entered into under Section 314.008. At the hearing, interested persons are entitled to speak and present evidence for or against the designation. Not later than the seventh day before the date of the hearing, notice of the hearing must be:

(1) published in a newspaper having general circulation in the municipality; and

(2) delivered in writing to the presiding officer of the governing body of each county and school district that includes in its boundaries real property that is to be included in the proposed renewable energy reinvestment zone.

(d) A notice made under Subsection (c)(2) is presumed delivered when placed in the mail postage prepaid and properly addressed to the appropriate presiding officer. A notice properly addressed and sent by registered or certified mail for which a return receipt is received by the sender is considered to have been delivered to the addressee.

Sec. 314.006. CRITERIA FOR RENEWABLE ENERGY REINVESTMENT ZONE. To be designated as a renewable energy reinvestment zone under this chapter, an area must meet the following requirements:

(1) the area must be at least 100 acres in size;

(2) at the time of the designation of the area as a zone, at least 75 percent of the land in the area must be owned by the municipality designating the area or by a municipal development corporation created under Chapter 379A, Local Government Code; and

(3) the area must be zoned for commercial purposes.

Sec. 314.007. EXPIRATION OF REINVESTMENT ZONE. The designation of a renewable energy reinvestment zone for tax abatement expires five years after the date of the designation and may be renewed for periods not to exceed five years. The expiration of the designation does not affect an existing tax abatement agreement made under this chapter.

Sec. 314.008. MUNICIPAL TAX ABATEMENT AGREEMENT. (a) The governing body of a municipality eligible to enter into tax abatement agreements under Section 314.004 may agree in writing with a renewable energy company that owns taxable real property that is located in a renewable energy reinvestment zone, but that is not located in an improvement project financed by tax increment bonds, to exempt from taxation 50 percent of the value of the real property and of tangible personal property located on the real property for a period of 15 years, on the condition that the company construct a facility on the property to be used in connection with the company's operations as specified by the agreement. The governing body of an eligible municipality may agree in writing with a renewable energy company that owns a leasehold interest in tax-exempt real property that is located in a renewable energy reinvestment zone, but that is not located in an improvement project financed by tax increment bonds, to exempt 50 percent of the value of property subject to ad valorem taxation, including the leasehold interest, improvements, and tangible personal property located on the real property, for a period of 15 years, on the condition that the company construct a facility on the property to be used in connection with the company's operations as specified by the agreement. A tax abatement agreement under this section is subject to the rights of holders of outstanding bonds of the municipality. In a municipality that has a comprehensive zoning ordinance, an improvement, development, or redevelopment taking place under an agreement under this section must conform to the comprehensive zoning ordinance.

(b) The property subject to an agreement made under this section may be located in the extraterritorial jurisdiction of the municipality. In that event, the agreement applies to taxes of the municipality if the municipality annexes the property during the period specified in the agreement.

(c) Except as otherwise provided by this subsection, property that is in a renewable energy reinvestment zone and that is owned or leased by a person who is a member of the governing body of the municipality or a member of a zoning or planning board or commission of the municipality is excluded from property tax abatement. Property owned or leased by a person that is subject to a tax abatement agreement in effect when the person becomes a member of the governing body or of the zoning or planning board or commission does not cease to be eligible for property tax abatement under that agreement because of the person's membership on the governing body, board, or commission.

Sec. 314.009. NOTICE OF TAX ABATEMENT AGREEMENT TO COUNTIES AND SCHOOL DISTRICTS. (a) Not later than the seventh day before the date on which a municipality enters into an agreement under Section 314.008, the governing body of the municipality or a designated officer or employee of the municipality shall deliver to the presiding officer of the governing body of each county and school district in which the property to be subject to the agreement is located a written notice that the municipality intends to enter into the agreement. The notice must include a copy of the proposed agreement.

(b) A notice is presumed delivered when placed in the mail postage paid and properly addressed to the appropriate presiding officer. A notice properly addressed and sent by registered or certified mail for which a return receipt is received by the sender is considered to have been delivered to the addressee.

(c) Failure to deliver the notice does not affect the validity of the agreement.

Sec. 314.010. SPECIFIC TERMS OF TAX ABATEMENT AGREEMENT. An agreement made under Section 314.008 must:

(1) list the kind, number, and location of all proposed improvements of the property;

(2) provide access to and authorize inspection of the property by municipal employees and by employees of each county and school district that approves the agreement to ensure that the improvements are made according to the specifications and conditions of the agreement;

(3) limit the uses of the property consistent with the general purpose of encouraging development or redevelopment of the renewable energy reinvestment zone during the period that property tax exemptions are in effect;

(4) provide for recapturing property tax revenue lost as a result of the agreement if the owner of the property fails to make the improvements as provided by the agreement;

(5) contain each term agreed to by the owner of the property;

(6) require the owner of the property to certify annually to the governing body of the municipality and each county and school district that approves the agreement that the owner is in compliance with each applicable term of the agreement; and

(7) provide that the governing body of the municipality may cancel or modify the agreement if the property owner fails to comply with the agreement.

Sec. 314.011. APPROVAL OF AGREEMENT BY GOVERNING BODY OF MUNICIPALITY. (a) To be effective, an agreement made under this chapter by a municipality must be approved by the affirmative vote of a majority of the members of the governing body of the municipality at a regularly scheduled meeting of the governing body.

(b) On approval by the governing body, an agreement may be executed in the same manner as other contracts made by the municipality.

Sec. 314.012. MODIFICATION OR TERMINATION OF AGREEMENT. (a) At any time before the expiration of an agreement made under this chapter, the agreement may be modified by the parties to the agreement to include other provisions that could have been included in the original agreement or to delete provisions that were not necessary to the original agreement. The modification must be made by the same procedure by which the original agreement was approved and executed. The original agreement may not be modified to extend beyond 15 years from the date of the original agreement.

(b) An agreement made under this chapter may be terminated by the mutual consent of the parties in the same manner that the agreement was approved and executed.

Sec. 314.013. TAX ABATEMENT BY COUNTY AND SCHOOL DISTRICT. (a) If municipal property taxes on property located in the taxing jurisdiction of a municipality are abated under an agreement under Section 314.008, the agreement also applies to the taxation of the property by a county or school district in which the property is located if the governing body of the county or school district approves the agreement by the affirmative vote of a majority of the members of the governing body at a regularly scheduled meeting of the governing body.

(b) A county or school district may not approve a municipal tax abatement agreement under this chapter unless the governing body of the county or school district adopts a resolution stating that the county or school district elects to become eligible to participate in tax abatement and establishes guidelines and criteria governing the approval by the county or school district of municipal tax abatement agreements. The provisions of Section 314.004 governing guidelines and criteria for the entry by a municipality into a tax abatement agreement apply to guidelines and criteria established by a county or school district for approval of a municipal tax abatement agreement to the extent those provisions can be made applicable.

SECTION 7. Section 11.28, Tax Code, is amended to read as follows:

Sec. 11.28. PROPERTY EXEMPTED FROM ~~[CITY]~~ TAXATION BY AGREEMENT. (a) The owner of property to which an agreement made under Chapter 312 ~~[the Property Redevelopment and Tax Abatement Act (Chapter 312 of this code)]~~ applies is entitled to exemption from taxation by an incorporated city or town or other taxing unit of all or part of the value of the property as provided by the agreement.

(b) The owner of property to which an agreement made by an incorporated city or town under Chapter 314 applies is entitled to exemption from taxation by the incorporated city or town and from taxation by a county or school district that has approved the agreement of part of the value of the property as provided by the agreement.

SECTION 8. Section 3815.051(a), Special District Local Laws Code, is amended to read as follows:

(a) The district is governed by a board of 17 ~~[24]~~ directors who serve staggered terms of four years, with eight ~~[40]~~ directors' terms expiring June 1 of an odd-numbered year and nine ~~[11]~~ directors' terms expiring June 1 of the following odd-numbered year.

SECTION 9. Subchapter B, Chapter 3815, Special District Local Laws Code, is amended by adding Section 3815.055 to read as follows:

Sec. 3815.055. INTERIM DIRECTORS. (a) The board serving on September 1, 2011, is abolished and is replaced by an interim board consisting of the following directors:

<u>Pos. No.</u>	<u>Name of Director</u>
<u>1</u>	<u>Alan D. Bergeron</u>
<u>2</u>	<u>Sharone Mayberry</u>
<u>3</u>	<u>James Donatto Sr.</u>
<u>4</u>	<u>Hexser J. Holliday II</u>
<u>5</u>	<u>Osama Abdullatif</u>
<u>6</u>	<u>Skye Thompson</u>
<u>7</u>	<u>Asmara Tekle Johnson</u>
<u>8</u>	<u>Jaa St. Julien</u>
<u>9</u>	<u>Jimmy Arnold</u>
<u>10</u>	<u>Cyeoni Miles</u>
<u>11</u>	<u>Zinetta A. Burney</u>
<u>12</u>	<u>Chris Hageney</u>
<u>13</u>	<u>Teddy A. McDavid</u>
<u>14</u>	<u>Brian G. Smith</u>
<u>15</u>	<u>Robert S. Muhammad</u>
<u>16</u>	<u>Robert C. Combre</u>
<u>17</u>	<u>Janice M. Sibley-Reid</u>

(b) The terms of the interim directors expire June 1, 2015.

(c) The mayor and the members of the governing body of the City of Houston shall appoint successor directors not later than June 1, 2015, and shall stagger the terms of the directors, with eight of the directors' terms expiring June 1, 2017, and the remaining directors' terms expiring June 1, 2019.

(d) This section expires September 1, 2015.

SECTION 10. Notwithstanding **HB 2853**, Acts of the 82nd Legislature, Regular Session, 2011, Section 311.011(h), Tax Code, as added by that Act, does not take effect. This section prevails over **HB 2853**, Acts of the 82nd Legislature, Regular Session, 2011, or any other conflicting Act of the 82nd Legislature, Regular Session, 2011, regardless of the relative dates of enactment.

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

Representative Coleman moved to adopt the conference committee report on **HB 3275**.

The motion to adopt the conference committee report on **HB 3275** prevailed by (Record 1714): 86 Yeas, 60 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Berman; Bohac; Callegari; Castro; Coleman; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Eissler; Farias; Farrar; Fletcher; Flynn; Gallego; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hardcastle; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hunter; Isaac; Jackson; Johnson; Keffer; King, T.; Kuempel; Larson; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Muñoz; Murphy; Naishtat; Oliveira; Otto; Peña; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Ritter; Rodriguez; Scott; Smith, W.; Smithee; Solomons; Strama; Taylor, V.; Thompson; Torres; Turner; Veasey; Villarreal; Vo; Woolley; Workman.

Nays — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Bonnen; Branch; Brown; Burkett; Button; Cain; Carter; Chisum; Christian; Cook; Craddick; Creighton; Davis, S.; Driver; Elkins; Frullo; Garza; Gooden; Hamilton; Hancock; Harless; Harper-Brown; Hughes; King, P.; King, S.; Kleinschmidt; Kolkhorst; Landtroop; Laubenberg; Lavender; Legler; Lewis; Miller, D.; Miller, S.; Morrison; Nash; Orr; Parker; Patrick; Paxton; Perry; Phillips; Riddle; Schwertner; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Taylor, L.; Truitt; Weber; White; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Burnam; Miles.

Absent — Walle.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1714. I intended to vote no.

Hunter

I was shown voting yes on Record No. 1714. I intended to vote no.

Kuempel

I was shown voting yes on Record No. 1714. I intended to vote no.

Solomons

HR 2174 - ADOPTED (by S. Miller)

Representative S. Miller moved to suspend all necessary rules to take up and consider at this time **HR 2174**.

The motion prevailed.

The following resolution was laid before the house:

HR 2174, Congratulating State Representative Bill Callegari and his wife, Ann, on their 50th wedding anniversary.

HR 2174 was read and was adopted.

On motion of Representative C. Anderson, the names of all the members of the house were added to **HR 2174** as signers thereof.

NOTICE GIVEN

Pursuant to Rule 14, Section 4 of the House Rules, the speaker, at 9:30 p.m., gave notice that he would recognize Representative Bonnen to make a motion to suspend Rule 8, Section 13 of the House Rules and all necessary rules to consider conference committee reports on **HB 6**, **SB 23**, and items remaining on today's items eligible lists after the midnight deadline for consideration.

HB 2093 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Thompson submitted the following conference committee report on **HB 2093**:

Austin, Texas, May 28, 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 2093** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Van de Putte

Deuell

Duncan

Jackson

On the part of the senate

Thompson

Eiland

Sheets

Smithee

On the part of the house

HB 2093, A bill to be entitled An Act relating to the operation and regulation of certain consolidated insurance programs.

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

SECTION 1. Title 2, Insurance Code, is amended by adding Subtitle C to read as follows:

SUBTITLE C. PROGRAMS AFFECTING MULTIPLE LINES OF INSURANCE

CHAPTER 151. CONSOLIDATED INSURANCE PROGRAMS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 151.001. DEFINITIONS. In this chapter:

(1) "Consolidated insurance program" means a program under which a principal provides general liability insurance coverage, workers' compensation insurance coverage, or both that are incorporated into an insurance program for a single construction project or multiple construction projects.

(2) "Construction project" means construction, remodeling, maintenance, or repair of improvements to real property. The term includes the immediate construction location and areas incidental and necessary to the work as defined in the construction contract documents. A construction project under this chapter does not include a single family house, townhouse, duplex, or land development directly related thereto.

(3) "Contractor" means any person who has entered into a construction contract or a professional services contract and is enrolled in the consolidated insurance program.

(4) "Claim" includes a loss or liability for a claim, damage, expense, or governmentally imposed fine, penalty, administrative action, or other action.

(5) "Construction contract" means a contract, subcontract, or agreement, or a performance bond assuring the performance of any of the foregoing, entered into or made by an owner, architect, engineer, contractor, construction manager, subcontractor, supplier, or material or equipment lessor for the design, construction, alteration, renovation, remodeling, repair, or maintenance of, or for the furnishing of material or equipment for, a building, structure, appurtenance, or other improvement to or on public or private real property, including moving, demolition, and excavation connected with the real property. The term includes an agreement to which an architect, engineer, or contractor and an owner's lender are parties regarding an assignment of the construction contract or other modifications thereto.

(6) "Indemnitor" means a party to a construction contract that is required to provide indemnification or additional insured status to another party to the construction contract or to a third party.

(7) "Insurer" has the meaning assigned by Section 560.001.

(8) "Principal" means the person who procures the insurance policy under a consolidated insurance program.

Sec. 151.002. RULES. The commissioner shall adopt rules as necessary to implement and enforce Subchapter B.

[Sections 151.003-151.050 reserved for expansion]

SUBCHAPTER B. GENERAL REQUIREMENTS

Sec. 151.051. DURATION OF GENERAL LIABILITY COVERAGE. A consolidated insurance program that provides general liability insurance coverage must provide completed operations insurance coverage for a policy period of not less than three years.

[Sections 151.052-151.100 reserved for expansion]

SUBCHAPTER C. REQUIREMENTS RELATED TO INDEMNIFICATION

Sec. 151.101. APPLICABILITY. (a) This subchapter applies to a construction contract for a construction project for which an indemnitor is provided or procures insurance subject to:

(1) this chapter; or

(2) Title 10.

(b) Subsection (a) applies regardless of whether the insurance is provided or procured before or after execution of the contract.

Sec. 151.102. AGREEMENT VOID AND UNENFORCEABLE. Except as provided by Section 151.103, a provision in a construction contract, or in an agreement collateral to or affecting a construction contract, is void and unenforceable as against public policy to the extent that it requires an indemnitor to indemnify, hold harmless, or defend a party, including a third party, against a claim caused by the negligence or fault, the breach or violation of a statute, ordinance, governmental regulation, standard, or rule, or the breach of contract of the indemnitee, its agent or employee, or any third party under the control or supervision of the indemnitee, other than the indemnitor or its agent, employee, or subcontractor of any tier.

Sec. 151.103. EXCEPTION FOR EMPLOYEE CLAIM. Section 151.102 does not apply to a provision in a construction contract that requires a person to indemnify, hold harmless, or defend another party to the construction contract or a third party against a claim for the bodily injury or death of an employee of the indemnitor, its agent, or its subcontractor of any tier.

Sec. 151.104. UNENFORCEABLE ADDITIONAL INSURANCE PROVISION. (a) Except as provided by Subsection (b), a provision in a construction contract that requires the purchase of additional insured coverage, or any coverage endorsement, or provision within an insurance policy providing additional insured coverage, is void and unenforceable to the extent that it requires or provides coverage the scope of which is prohibited under this subchapter for an agreement to indemnify, hold harmless, or defend.

(b) This section does not apply to a provision in an insurance policy, or an endorsement to an insurance policy, issued under a consolidated insurance program to the extent that the provision or endorsement lists, adds, or deletes named insureds to the policy.

Sec. 151.105. EXCLUSIONS. This subchapter does not affect:

(1) an insurance policy, including a policy issued under an owner-controlled or owner-sponsored consolidated insurance program or a contractor-controlled or contractor-sponsored consolidated insurance program, except as provided by Section 151.104;

(2) a cause of action for breach of contract or warranty that exists independently of an indemnity obligation, including an indemnity obligation in a construction contract under a construction project for which insurance is provided under a consolidated insurance program;

(3) indemnity provisions contained in loan and financing documents, other than construction contracts to which the contractor and owner's lender are parties as provided under Section 151.001(5);

(4) general agreements of indemnity required by sureties as a condition of execution of bonds for construction contracts;

(5) the benefits and protections under the workers' compensation laws of this state;

(6) the benefits or protections under the governmental immunity laws of this state;

(7) agreements subject to Chapter 127, Civil Practice and Remedies Code;

(8) a license agreement between a railroad company and a person that permits the person to enter the railroad company's property as an accommodation to the person for work under a construction contract that does not primarily benefit the railroad company;

(9) an indemnity provision pertaining to a claim based upon copyright infringement;

(10) an indemnity provision in a construction contract, or in an agreement collateral to or affecting a construction contract, pertaining to:

(A) a single family house, townhouse, duplex, or land development directly related thereto; or

(B) a public works project of a municipality; or

(11) a joint defense agreement entered into after a claim is made.

[Sections 151.106-151.150 reserved for expansion]

SUBCHAPTER D. NONWAIVER

Sec. 151.151. NONWAIVER. A provision of this chapter may not be waived by contract or otherwise.

SECTION 2. Section 2252.902, Government Code, is repealed.

SECTION 3. (a) Chapter 151, Insurance Code, as added by this Act, applies only to a new or renewed consolidated insurance program for a construction project that begins on or after January 1, 2012. A consolidated insurance program for a construction project that begins 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.

(b) The changes in law made by this Act apply only to an original construction contract with an owner of an improvement or contemplated improvement that is entered into on or after the effective date of this Act. If an original construction contract with an owner of an improvement or contemplated improvement is entered into on or after the effective date of this Act, the changes in law made by this Act apply to a related subcontract, purchase order contract, personal property lease agreement, and insurance policy. If an original construction contract with an owner of an improvement or contemplated improvement is entered into before the effective date of this Act, that original construction contract and a related subcontract, purchase order contract, personal property lease agreement, and insurance policy are governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 4. This Act takes effect January 1, 2012.

HB 2093 - POINT OF ORDER

Representative V. Taylor raised a point of order against further consideration of **HB 2093** under Rule 8, Section 3 of the House Rules on the grounds that the bill violates the one subject rule.

The speaker overruled the point of order.

HB 2093 - POINT OF ORDER

Representative V. Taylor raised a point of order against further consideration of **HB 2093**.

The speaker overruled the point of order.

HB 2093 - POINT OF ORDER

Representative V. Taylor raised a point of order against further consideration of **HB 2093**.

The speaker overruled the point of order.

Representative Thompson moved to adopt the conference committee report on **HB 2093**.

The motion to adopt the conference committee report on **HB 2093** prevailed by (Record 1715): 121 Yeas, 21 Nays, 4 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Aycock; Beck; Berman; Bohac; Bonnen; Brown; Burkett; Callegari; Castro; Chisum; Coleman; Cook; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Jackson; Johnson; Keffer; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miller, D.; Miller, S.; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Patrick; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Workman.

Nays — Aliseda; Anderson, R.; Branch; Cain; Carter; Christian; Craddick; Flynn; Hancock; Isaac; King, P.; Lavender; Legler; Morrison; Parker; Paxton; Simpson; Taylor, V.; White; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C); Button; Davis, S.; Sheets.

Absent, Excused — Burnam; Miles.

Absent — Guillen; Raymond.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1715. I intended to vote no.

Hilderbran

I was shown voting yes on Record No. 1715. I intended to vote no.

Laubenberg

I was shown voting no on Record No. 1715. I intended to vote yes.

Lavender

HR 2684 - ADOPTED
(by V. Taylor)

The following privileged resolution was laid before the house:

HR 2684

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 100** (adoption of certain voting procedures and certain elections, including provisions necessary to implement the federal Military and Overseas Voter Empowerment Act, deadlines for declaration of candidacy and dates for certain elections, and terms of certain election officials) to consider and take action on the following matters:

(1) House Rule 13, Section 9(a)(3), is suspended to permit the committee to add text on a matter not in disagreement in proposed SECTION 5 of the bill, added Section 41.0052(c), Election Code, and in proposed SECTION 44 of the bill, amended Section 11.059(e), Education Code:

(c) . . . The change contained in the resolution supersedes a city charter provision . . . that requires the terms of members of the governing body to be staggered.

(e) . . . The resolution must provide for staggered terms [~~a term~~] of either three or four years and specify the manner in which the transition from the length of the former term to the modified term is made. . . .

Explanation: The changes are necessary to allow for a home-rule municipal charter provision that requires the use of staggered terms to elect members of the governing body of the municipality to be superseded by a resolution, and to require staggered terms for the trustees of the board of trustees of an independent school district.

(2) House Rule 13, Section 9(a)(4), is suspended to permit the committee to add text on a matter which is not included in either the house or senate version of the bill in proposed SECTION 51 of the bill:

SECTION 51. The following are repealed:

(1) Section 41.0053, Election Code;

...

Explanation: The change is necessary to repeal the required use of an election date by certain political subdivisions.

HR 2684 was adopted by (Record 1716): 144 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Burkett; 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; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; 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; 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); Keffer.

Absent, Excused — Burnam; Miles.

Absent — Brown; Harless.

SB 100 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative V. Taylor submitted the conference committee report on **SB 100**.

Representative V. Taylor moved to adopt the conference committee report on **SB 100**.

The motion to adopt the conference committee report on **SB 100** prevailed by (Record 1717): 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; 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; 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, Excused — Burnam; Miles.

HR 2686 - ADOPTED
(by Harper-Brown)

The following privileged resolution was laid before the house:

HR 2686

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 2608** (the continuation and functions of the Texas Department of Housing and Community Affairs) 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 subsection in added Section 2306.531, Government Code:

(g) This subchapter does not create a public or private cause of action.

Explanation: The addition is necessary to clarify that added Subchapter X-1, Chapter 2306, Government Code, does not create a public or private cause of action.

HR 2686 was adopted by (Record 1718): 143 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; 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.; 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; 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; 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, Excused — Burnam; Miles.

Absent — Hochberg; Howard, D.; Morrison; Shelton.

HB 2608 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Harper-Brown submitted the following conference committee report on **HB 2608**:

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 2608** 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
Nichols
Eltfie

Harper-Brown
P. King
L. Taylor
J. Davis
Turner

On the part of the senate

On the part of the house

HB 2608, A bill to be entitled An Act relating to the continuation and functions of the Texas Department of Housing and Community Affairs.

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

ARTICLE 1. GENERAL OPERATIONS AND ADMINISTRATION OF THE
TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

SECTION 1.01. Section 2306.022, Government Code, is amended to read as follows:

Sec. 2306.022. APPLICATION OF SUNSET ACT. The Texas Department of Housing and Community Affairs 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, 2023 ~~[2011]~~.

SECTION 1.02. Section 2306.043(c), Government Code, is amended to read as follows:

(c) The notice must:

- (1) include a brief summary of the alleged violation;
- (2) state the amount of the recommended penalty; and
- (3) inform the person of the person's right to a hearing before the State Office of Administrative Hearings ~~[board]~~ on the occurrence of the violation, the amount of the penalty, or both.

SECTION 1.03. Section 2306.044(a), Government Code, is amended to read as follows:

(a) Not later than the 20th day after the date the person receives the notice, the person in writing may:

- (1) accept the determination and recommended penalty of the director;
- or

(2) make a request for a hearing before the State Office of Administrative Hearings ~~[board]~~ on the occurrence of the violation, the amount of the penalty, or both.

SECTION 1.04. Section 2306.045, Government Code, is amended to read as follows:

Sec. 2306.045. HEARING. (a) If the person requests a hearing before the State Office of Administrative Hearings ~~[board]~~ or fails to respond in a timely manner to the notice, the director shall set a hearing and give written notice of the hearing to the person.

(b) The State Office of Administrative Hearings ~~[board]~~ shall:

(1) hold the hearing;

(2) ~~[and]~~ make findings of fact and conclusions of law about the occurrence of the violation and the amount of a proposed penalty; and

(3) issue a proposal for decision regarding the penalty and provide notice of the proposal to the board.

(c) Any administrative proceedings relating to the imposition of a penalty under Section 2306.041 is a contested case under Chapter 2001.

SECTION 1.05. Section 2306.046(a), Government Code, is amended to read as follows:

(a) The board shall issue an order after receiving a proposal for decision from the State Office of Administrative Hearings under Section 2306.045.
~~[Based on the findings of fact and conclusions of law, the board by order may:~~

~~[(1) find that a violation occurred and impose a penalty; or~~

~~[(2) find that a violation did not occur.]~~

SECTION 1.06. Section 2306.049(a), Government Code, is amended to read as follows:

(a) Judicial review of a board order imposing an administrative penalty is under the substantial evidence rule ~~[by trial de novo].~~

SECTION 1.07. Section 2306.072(c), Government Code, is amended to read as follows:

(c) The report must include:

(1) a complete operating and financial statement of the department;

(2) a comprehensive statement of the activities of the department during the preceding year to address the needs identified in the state low income housing plan prepared as required by Section 2306.0721, including:

(A) a statistical and narrative analysis of the department's performance in addressing the housing needs of individuals and families of low and very low income;

(B) the ethnic and racial composition of individuals and families applying for and receiving assistance from each housing-related program operated by the department; ~~[and]~~

(C) the department's progress in meeting the goals established in the previous housing plan, including efforts to address the populations described by Section 2306.0721(c)(1); and

(D) recommendations on how to improve the coordination of department services to the populations described by Section 2306.0721(c)(1);

(3) an explanation of the efforts made by the department to ensure the participation of individuals of low income and their community-based institutions in department programs that affect them;

(4) a statement of the evidence that the department has made an affirmative effort to ensure the involvement of individuals of low income and their community-based institutions in the allocation of funds and the planning process;

(5) a statistical analysis, delineated according to each ethnic and racial group served by the department, that indicates the progress made by the department in implementing the state low income housing plan in each of the uniform state service regions;

(6) an analysis, based on information provided by the fair housing sponsor reports required under Section 2306.0724 and other available data, of fair housing opportunities in each housing development that receives financial assistance from the department that includes the following information for each housing development that contains 20 or more living units:

(A) the street address and municipality or county in which the property is located;

(B) the telephone number of the property management or leasing agent;

(C) the total number of units, reported by bedroom size;

(D) the total number of units, reported by bedroom size, designed for individuals who are physically challenged or who have special needs and the number of these individuals served annually;

(E) the rent for each type of rental unit, reported by bedroom size;

(F) the race or ethnic makeup of each project;

(G) the number of units occupied by individuals receiving government-supported housing assistance and the type of assistance received;

(H) the number of units occupied by individuals and families of extremely low income, very low income, low income, moderate income, and other levels of income;

(I) a statement as to whether the department has been notified of a violation of the fair housing law that has been filed with the United States Department of Housing and Urban Development, the Commission on Human Rights, or the United States Department of Justice; and

(J) a statement as to whether the development has any instances of material noncompliance with bond indentures or deed restrictions discovered through the normal monitoring activities and procedures that include meeting occupancy requirements or rent restrictions imposed by deed restriction or financing agreements;

(7) a report on the geographic distribution of low income housing tax credits, the amount of unused low income housing tax credits, and the amount of low income housing tax credits received from the federal pool of unused funds from other states; and

(8) a statistical analysis, based on information provided by the fair housing sponsor reports required by Section 2306.0724 and other available data, of average rents reported by county.

SECTION 1.08. Section 2306.0721(c), Government Code, is amended to read as follows:

(c) The plan must include:

(1) an estimate and analysis of the size and the different housing needs of the following populations in each uniform state service region:

(A) individuals and families of moderate, low, very low, and extremely low income;

(B) individuals with special needs; ~~and~~

(C) homeless individuals;

(D) veterans; and

(E) youth who are aging out of foster care;

(2) a proposal to use all available housing resources to address the housing needs of the populations described by Subdivision (1) by establishing funding levels for all housing-related programs;

(3) an estimate of the number of federally assisted housing units available for individuals and families of low and very low income and individuals with special needs in each uniform state service region;

(4) a description of state programs that govern the use of all available housing resources;

(5) a resource allocation plan that targets all available housing resources to individuals and families of low and very low income and individuals with special needs in each uniform state service region;

(6) a description of the department's efforts to monitor and analyze the unused or underused federal resources of other state agencies for housing-related services and services for homeless individuals and the department's recommendations to ensure the full use by the state of all available federal resources for those services in each uniform state service region;

(7) strategies to provide housing for individuals and families with special needs in each uniform state service region;

(8) a description of the department's efforts to encourage in each uniform state service region the construction of housing units that incorporate energy efficient construction and appliances;

(9) an estimate and analysis of the housing supply in each uniform state service region;

(10) an inventory of all publicly and, where possible, privately funded housing resources, including public housing authorities, housing finance corporations, community housing development organizations, and community action agencies;

(11) strategies for meeting rural housing needs;

(12) a biennial action plan for colonias that:

(A) addresses current policy goals for colonia programs, strategies to meet the policy goals, and the projected outcomes with respect to the policy goals; and

(B) includes information on the demand for contract-for-deed conversions, services from self-help centers, consumer education, and other colonia resident services in counties some part of which is within 150 miles of the international border of this state;

(13) a summary of public comments received at a hearing under this chapter or from another source that concern the demand for colonia resident services described by Subdivision (12); and

(14) any other housing-related information that the state is required to include in the one-year action plan of the consolidated plan submitted annually to the United States Department of Housing and Urban Development.

SECTION 1.09. Section 2306.6721, Government Code, is transferred to Subchapter B, Chapter 2306, Government Code, redesignated as Section 2306.0504, Government Code, and amended to read as follows:

Sec. 2306.0504 [~~2306.6721~~]. DEBARMENT FROM PROGRAM PARTICIPATION. (a) The board by rule shall adopt a policy providing for the debarment of a person from participation in programs administered by the department [~~the low income housing tax credit program as described by this section~~].

(b) The department may debar a person from participation in a department [~~the~~] program on the basis of the person's past failure to comply with any condition imposed by the department in the administration of its programs [~~connection with the allocation of housing tax credits~~].

(c) The department shall debar a person from participation in a department [~~the~~] program if the person:

(1) materially or repeatedly violates any condition imposed by the department in connection with the administration of a department program, including a material or repeated violation of a land use restriction agreement regarding a development supported with a [~~allocation of~~] housing tax credit allocation [~~credits~~]; or

(2) is debarred from participation in federal housing programs by the United States Department of Housing and Urban Development[~~;~~ or

~~[(3) is in material noncompliance with or has repeatedly violated a land use restriction agreement regarding a development supported with a housing tax credit allocation].~~

(d) A person debarred by the department from participation in a department [~~the~~] program may appeal the person's debarment to the board.

ARTICLE 2. DISASTER MANAGEMENT PLANNING

SECTION 2.01. Section 418.106, Government Code, is amended by adding Subsection (b-1) to read as follows:

(b-1) The plan must identify:

(1) any requirements or procedures that local agencies and officials must satisfy or implement to:

(A) qualify for long-term federal disaster recovery funding; and

(B) prepare for long-term disaster recovery; and

(2) any appropriate state or local resources available to assist the local agencies and officials in satisfying or implementing those requirements or procedures.

SECTION 2.02. Chapter 2306, Government Code, is amended by adding Subchapter X-1 to read as follows:

SUBCHAPTER X-1. LONG-TERM DISASTER RECOVERY PLAN

Sec. 2306.531. LONG-TERM DISASTER RECOVERY PLAN. (a) In consultation with the office of the governor, the department or another agency or office designated under Subsection (f) shall develop a long-term disaster recovery plan to administer money received for disaster recovery from the federal government or any other source.

(b) The department and the Texas Department of Rural Affairs each must be consulted in developing and administering the plan, if those agencies are not designated under Subsection (f). The following entities must also be consulted:

(1) existing disaster recovery entities established by law or local, state, or federal agreements;

(2) local government officials, contractors, community advocates, businesses, nonprofit organizations, and other stakeholders; and

(3) the United States Department of Housing and Urban Development to ensure that the plan complies with federal law.

(c) The plan developed under this section must establish or identify:

(1) a method of distribution of disaster relief funding to local areas, subject to modification by the governor based on the nature of the disaster;

(2) guidelines for outreach to program applicants and for eligible housing and infrastructure activities;

(3) eligibility criteria for program applicants;

(4) housing quality and energy efficiency standards;

(5) priorities for serving local populations;

(6) procedures for establishing compliance with federal requirements;

(7) procedures for coordination and communication among federal, state, and local entities;

(8) pre-disaster and post-disaster training programs;

(9) a procedure for each appropriate state agency or office to compile, update, and post on that agency's or office's Internet website in advance of hurricane season all relevant forms and information for program applicants;

(10) federal and state monitoring and reporting requirements, including a list of the types of data that local government officials may be required to collect, analyze, and report;

(11) the state information technology systems and processes that will be used to administer funds from the federal government or any other source;

(12) a process for identifying elements of disaster recovery where coordination between or among state agencies will be required; and

(13) a process for implementing memoranda of understanding in areas of disaster recovery where interagency coordination will be required.

(d) In developing the plan under this section, the agency or office designated under Subsection (f) shall seek from county judges and mayors in areas impacted by large-scale natural disasters input regarding the development of future methods of distributing federal funding for long-term disaster recovery.

(e) The plan established under this section must be updated biennially and approved by the governor.

(f) Biennially, the governor shall designate a state agency or office to be the primary agency or office in charge of coordinating the distribution of long-term disaster recovery funding.

(g) This subchapter does not create a public or private cause of action.

SECTION 2.03. Section 2306.542, Government Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) Using the natural disaster housing reconstruction plan developed under this subchapter, the director and advisory committee shall develop, for implementation under Subsections (b) and (c), housing reconstruction demonstration pilot programs for three areas, each of which was affected by one of the three most recent federally declared natural disasters. Except as provided by Subsection (d), the [The] pilot programs must provide for the replacement of at least 20 houses in each area to test the feasibility of implementing the plan in the large-scale production of replacement housing for victims of federally declared natural disasters.

(d) If the local requirements, regulations, or environmental factors of an area require elevation of houses, the department may deviate from the 20-house requirement under Subsection (a) and determine the number of houses needed to test the feasibility of implementing the plan.

ARTICLE 3. HOUSING TRUST FUND PROGRAM; LOW INCOME HOUSING TAX CREDIT PROGRAM

SECTION 3.01. Sections 2306.111(d-1) and (d-2), Government Code, are amended to read as follows:

(d-1) In allocating low income housing tax credit commitments under Subchapter DD, the department shall, before applying the regional allocation formula prescribed by Section 2306.1115, set aside for at-risk developments, as defined by Section 2306.6702, not less than the minimum amount of housing tax credits required under Section 2306.6714. Funds or credits are not required to be allocated according to the regional allocation formula under Subsection (d) if:

(1) the funds or credits are reserved for contract-for-deed conversions or for set-asides mandated by state or federal law and each contract-for-deed allocation or set-aside allocation equals not more than 10 percent of the total allocation of funds or credits for the applicable program;

(2) the funds or credits are allocated by the department primarily to serve persons with disabilities; or

(3) the funds are housing trust funds administered by the department under Sections 2306.201-2306.206 that are not otherwise required to be set aside under state or federal law and do not exceed \$3 million for each programmed activity during each application cycle.

(d-2) In allocating low income housing tax credit commitments under Subchapter DD, the department shall allocate five percent of the housing tax credits in each application cycle to developments that receive federal financial assistance through the Texas Rural Development Office of the United States Department of Agriculture. Any funds allocated to developments under this subsection that involve rehabilitation must come from the funds set aside for at-risk developments under Section 2306.6714 and any additional funds set aside for those developments under Subsection (d-1). This subsection does not apply to a development financed wholly or partly under Section 538 of the Housing Act of 1949 (42 U.S.C. Section 1490p-2) unless the development involves the rehabilitation of an existing property that has received and will continue to receive as part of the financing of the development federal financial assistance provided under Section 515 of the Housing Act of 1949 (42 U.S.C. Section 1485).

SECTION 3.02. Section 2306.6702(a)(5), Government Code, is amended to read as follows:

(5) "At-risk development" means:

(A) a development that:

(i) ~~[(A)]~~ has received the benefit of a subsidy in the form of a below-market interest rate loan, interest rate reduction, rental subsidy, Section 8 housing assistance payment, rental supplement payment, rental assistance payment, or equity incentive under the following federal laws, as applicable:

(a) ~~[(+)]~~ Sections 221(d)(3) and (5), National Housing Act (12 U.S.C. Section 1715l);

(b) ~~[(+)]~~ Section 236, National Housing Act (12 U.S.C. Section 1715z-1);

(c) ~~[(+)]~~ Section 202, Housing Act of 1959 (12 U.S.C. Section 1701q);

(d) ~~[(+)]~~ Section 101, Housing and Urban Development Act of 1965 (12 U.S.C. Section 1701s);

(e) ~~[(+)]~~ the Section 8 Additional Assistance Program for housing developments with HUD-Insured and HUD-Held Mortgages administered by the United States Department of Housing and Urban Development;

(f) ~~[(+)]~~ the Section 8 Housing Assistance Program for the Disposition of HUD-Owned Projects administered by the United States Department of Housing and Urban Development;

(g) ~~[(+)]~~ Sections 514, 515, and 516, Housing Act of 1949 (42 U.S.C. Sections 1484, 1485, and 1486); or

(h) ~~[(+)]~~ Section 42, Internal Revenue Code of 1986 (26 U.S.C. Section 42); and

(ii) ~~[(B)]~~ is subject to the following conditions:

(a) ~~[(+)]~~ the stipulation to maintain affordability in the contract granting the subsidy is nearing expiration; or

(b) ~~[(+)]~~ the federally insured mortgage on the development is eligible for prepayment or is nearing the end of its term; or

(B) a development that proposes to rehabilitate or reconstruct housing units that:

(i) are owned by a public housing authority and receive assistance under Section 9 of the National Housing Act (12 U.S.C. Section 1706d); or

(ii) received assistance under Section 9 of the National Housing Act (12 U.S.C. Section 1706d) and:

(a) are proposed to be disposed of or demolished by a public housing authority; or

(b) have been disposed of or demolished by a public housing authority in the two-year period preceding the application for housing tax credits.

SECTION 3.03. Section 2306.67022, Government Code, is amended to read as follows:

Sec. 2306.67022. QUALIFIED ALLOCATION PLAN; MANUAL. At least biennially, the [The] board [annually] shall adopt a qualified allocation plan and a corresponding manual to provide information regarding the administration of and eligibility for the low income housing tax credit program. The board may adopt the plan and manual annually, as considered appropriate by the board.

SECTION 3.04. Sections 2306.6710(b) and (f), Government Code, are amended to read as follows:

(b) If an application satisfies the threshold criteria, the department shall score and rank the application using a point system that:

(1) prioritizes in descending order criteria regarding:

(A) financial feasibility of the development based on the supporting financial data required in the application that will include a project underwriting pro forma from the permanent or construction lender;

(B) quantifiable community participation with respect to the development, evaluated on the basis of a resolution concerning the development that is voted on and adopted by the governing body of a municipality [written statements from any neighborhood organizations on record with the state or county in which the development is to be located and] whose boundaries contain the proposed development site or by the commissioners court of a county whose boundaries contain the proposed development site;

(C) the income levels of tenants of the development;

(D) the size and quality of the units;

(E) the commitment of development funding by local political subdivisions;

(F) the level of community support for the application, evaluated on the basis of a written statement [statements] from the state representative [or the state senator] that represents the district containing the proposed development site;

(G) the rent levels of the units;

(H) the cost of the development by square foot;

(I) the services to be provided to tenants of the development; and

(J) whether, at the time the complete application is submitted or at any time within the two-year period preceding the date of submission, the proposed development site is located in an area declared to be a disaster under Section 418.014;

(2) uses criteria imposing penalties on applicants or affiliates who have requested extensions of department deadlines relating to developments supported by housing tax credit allocations made in the application round preceding the current round or a developer or principal of the applicant that has been removed by the lender, equity provider, or limited partners for its failure to perform its obligations under the loan documents or limited partnership agreement; and

(3) encourages applicants to provide free notary public service to the residents of the developments for which the allocation of housing tax credits is requested.

(f) In evaluating the level of community support for an application under Subsection (b)(1)(F), the department shall award:

(1) positive points for a positive written statement ~~[statements]~~ received;

(2) negative points for a negative written statement ~~[statements]~~ received; and

(3) zero points for a neutral statement ~~[statements]~~ received.

SECTION 3.05. Sections 2306.6711(b) and (f), Government Code, are amended to read as follows:

(b) Not later than the deadline specified in the qualified allocation plan, the board shall issue commitments for available housing tax credits based on the application evaluation process provided by Section 2306.6710. The board may not allocate to an applicant housing tax credits in any unnecessary amount, as determined by the department's underwriting policy and by federal law, and in any event may not allocate to the applicant housing tax credits in an amount greater than \$3 ~~[\$2]~~ million in a single application round or to an individual development more than \$2 million in a single application round.

(f) The board may allocate housing tax credits to more than one development in a single community, as defined by department rule, in the same calendar year only if the developments are or will be located more than two ~~[one]~~ linear miles ~~[mile]~~ apart. This subsection applies only to communities contained within counties with populations exceeding one million.

SECTION 3.06. Section 2306.6718(b), Government Code, is amended to read as follows:

(b) The department shall provide the elected officials with an opportunity to comment on the application during the application evaluation process ~~[provided by Section 2306.6710]~~ and shall consider those comments in evaluating applications ~~[under that section]~~.

SECTION 3.07. Sections 2306.6724(a), (b), and (c), Government Code, are amended to read as follows:

(a) Regardless of whether the board will adopt the plan annually or biennially ~~[Not later than September 30 of each year]~~, the department, not later than September 30 of the year preceding the year in which the new plan is

proposed for use, shall prepare and submit to the board for adoption any proposed [the] qualified allocation plan required by federal law for use by the department in setting criteria and priorities for the allocation of tax credits under the low income housing tax credit program.

(b) Regardless of whether the board has adopted the plan annually or biennially, the [The] board shall [adopt and] submit to the governor any proposed [the] qualified allocation plan not later than November 15 of the year preceding the year in which the new plan is proposed for use.

[(e)] The governor shall approve, reject, or modify and approve the proposed qualified allocation plan not later than December 1.

SECTION 3.08. Subchapter DD, Chapter 2306, Government Code, is amended by adding Section 2306.6739 to read as follows:

Sec. 2306.6739. HOUSING TAX CREDITS FINANCED USING FEDERAL EMERGENCY FUNDS. (a) To the extent the department receives federal emergency funds that must be awarded by the department in the same manner as and that are subject to the same limitations as awards of housing tax credits, any reference in this chapter to the administration of the housing tax credit program applies equally to the administration of the federal funds, subject to Subsection (b).

(b) Notwithstanding any other law, the department may establish a separate application procedure for the federal emergency funds that does not follow the uniform application cycle required by Section 2306.1111 or the deadlines established by Section 2306.6724, and any reference in this chapter to an application period occurring in relation to those federal emergency funds refers to the period beginning on the date the department begins accepting applications for the federal funds and continuing until all of the available federal funds are awarded.

ARTICLE 4. MANUFACTURED HOUSING

SECTION 4.01. Section 2306.6022, Government Code, is amended by adding Subsections (e) and (f) to read as follows:

(e) The division director may allow an authorized employee of the division to dismiss a complaint if an investigation demonstrates that:

(1) a violation did not occur; or

(2) the subject of the complaint is outside the division's jurisdiction under this subchapter.

(f) An employee who dismisses a complaint under Subsection (e) shall report the dismissal to the division director and the board. The report must include a sufficient explanation of the reason the complaint was dismissed.

SECTION 4.02. Subchapter AA, Chapter 2306, Government Code, is amended by adding Section 2306.6023 to read as follows:

Sec. 2306.6023. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE RESOLUTION. (a) The division shall develop and implement a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008 for the adoption of division rules; and

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

(b) The division'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 division 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 4.03. Section 1201.003, Occupations Code, is amended by amending Subdivision (17) and adding Subdivision (17-a) to read as follows:

(17) "License holder" or "licensee" means a person who holds a department-issued license as a manufacturer, retailer, broker, ~~[rebuilder]~~ salesperson, or installer.

(17-a) "Management official" means an individual with authority over employees involved in the sale of manufactured homes at a retail location.

SECTION 4.04. Sections 1201.055(a) and (b), Occupations Code, are amended to read as follows:

(a) With guidance from the federal Housing and Community Development Act of 1974 (42 U.S.C. Section 5301 et seq.) and from the rules and regulations adopted under the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. Section 5401 et seq.), the board shall establish fees as follows:

(1) if the department acts as a design approval primary inspection agency, a schedule of fees for the review of HUD-code manufactured home blueprints and supporting information, to be paid by the manufacturer seeking approval of the blueprints and supporting information;

(2) except as provided by Subsection (e), a fee for the inspection of each HUD-code manufactured home manufactured or assembled in this state, to be paid by the manufacturer of the home;

(3) a fee for the inspection of an alteration made to the structure or plumbing, heating, or electrical system of a HUD-code manufactured home, to be charged on an hourly basis and to be paid by the person making the alteration;

(4) a fee for the inspection of the rebuilding of a salvaged manufactured home, to be paid by the ~~retailer~~ ~~[rebuilder]~~;

(5) a fee for the inspection of a used manufactured home to determine whether the home is habitable for the issuance of a new statement of ownership and location; and

(6) a fee for the issuance of a seal for a used mobile or HUD-code manufactured home.

(b) In addition to the fees imposed under Subsections (a)(2), (3), and (4), a manufacturer or ~~[;]~~ a person making an alteration, ~~[or a rebuilder,]~~ as appropriate, shall be charged for the actual cost of travel of a department representative to and from:

(1) the manufacturing facility, for an inspection described by Subsection (a)(2); or

(2) the place of inspection, for an inspection described by Subsection (a)(3) or (4).

SECTION 4.05. Section 1201.056, Occupations Code, is amended to read as follows:

Sec. 1201.056. LICENSE FEES. (a) The board shall establish fees for the issuance and renewal of licenses for:

- (1) manufacturers;
- (2) retailers;
- (3) brokers;
- (4) salespersons; and
- (5) ~~[rebuilders; and~~
~~[(6)]~~ installers.

(b) The board by rule may establish a fee for reprinting a license issued under this chapter.

SECTION 4.06. Sections 1201.101(e) and (f-1), Occupations Code, are amended to read as follows:

(e) A person may not repair, rebuild, or otherwise alter a salvaged manufactured home unless the person holds a ~~[rebuilder's or]~~ retailer's license.

~~(f-1) A retailer may not be licensed to operate more than [at a principal location and] one location [or more branch locations] under a single license[; provided, however, that a separate application must be made for each branch, and each branch must be separately bonded].~~

SECTION 4.07. Sections 1201.103(a) and (b), Occupations Code, are amended to read as follows:

(a) An applicant for a license as a manufacturer, retailer, broker, ~~[rebuilder,]~~ or installer must file with the director a license application containing:

(1) the legal name, address, and telephone number of the applicant and each person who will be a related person at the time the requested license is issued;

(2) all trade names, and the names of all other business organizations, under which the applicant does business subject to this chapter, the name of each such business organization registered with the secretary of state, and the address of such business organization;

(3) the dates on which the applicant became the owner and operator of the business; and

(4) the location to which the license will apply.

(b) A license application must be accompanied by:

- (1) proof of the security required by this subchapter; ~~[and]~~
- (2) payment of the fee required for issuance of the license; and
- (3) the information and the cost required under Section 1201.1031.

SECTION 4.08. Subchapter C, Chapter 1201, Occupations Code, is amended by adding Section 1201.1031 to read as follows:

Sec. 1201.1031. CRIMINAL HISTORY RECORD INFORMATION REQUIREMENT FOR LICENSE. (a) The department shall require that an applicant for a license or renewal of an unexpired license submit a complete and legible set of fingerprints, on a form prescribed by the board, to the department or to the Department of Public Safety for the purpose of obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation. The applicant is required to submit a set of fingerprints only once under this section unless a replacement set is otherwise needed to complete the criminal history check required by this section.

(b) The department shall refuse to issue a license to or renew the license of a person who does not comply with the requirement of Subsection (a).

(c) The department shall conduct a criminal history check of each applicant for a license or renewal of a license using information:

(1) provided by the individual under this section; and

(2) made available to the department by the Department of Public Safety, the Federal Bureau of Investigation, and any other criminal justice agency under Chapter 411, Government Code.

(d) The department may enter into an agreement with the Department of Public Safety to administer a criminal history check required under this section.

(e) The applicant shall pay the cost of a criminal history check under this section.

SECTION 4.09. Section 1201.104, Occupations Code, is amended by amending Subsections (a), (g), and (h) and adding Subsections (a-1), (a-2), (a-3), and (a-4) to read as follows:

(a) Except as provided by Subsection (g) ~~[(e)],~~ as a requirement for a manufacturer's, retailer's, broker's, installer's, ~~[salvage-rebuilder's,]~~ or salesperson's license, a person who was not licensed or registered with the department or a predecessor agency on September 1, 1987, must, not more than 12 months before applying for the person's first license under this chapter, attend and successfully complete eight [20] hours of instruction in the law, including instruction in consumer protection regulations.

(a-1) If the applicant is not an individual, the applicant must have at least one related person who satisfies the requirements of Subsection (a) [meets this requirement]. If that applicant is applying for a retailer's license, the related person must be a management official who satisfies the requirements of Subsections (a) and (a-2) at each retail location operated by the applicant.

(a-2) An applicant for a retailer's license must complete four hours of specialized instruction relevant to the sale, exchange, and lease-purchase of manufactured homes. The instruction under this subsection is in addition to the instruction required under Subsection (a).

(a-3) An applicant for an installer's license must complete four hours of specialized instruction relevant to the installation of manufactured homes. The instruction under this subsection is in addition to the instruction required under Subsection (a).

(a-4) An applicant for a joint installer-retailer license must comply with Subsections (a-2) and (a-3), for a total of eight hours of specialized instruction. The instruction under this subsection is in addition to the instruction required under Subsection (a).

(g) ~~Subsections~~ Subsection (a), (a-2), (a-3), and (a-4) do ~~does~~ not apply to a license holder who applies:

- (1) for a license for an additional business location; or
- (2) to renew or reinstate a license.

(h) An examination must be a requirement of successful completion of any initial required course of instruction under this section. The period needed to complete an examination under this subsection may not be used to satisfy the minimum education requirements under Subsection (a), (a-2), (a-3), or (a-4).

SECTION 4.10. Section 1201.106(a), Occupations Code, is amended to read as follows:

(a) An applicant for a license or a license holder shall file a bond or other security under Section 1201.105 for the issuance or renewal of a license in the following amount:

- (1) \$100,000 for a manufacturer;
- (2) \$50,000 for a retailer ~~[retailer's principal location];~~
- (3) ~~[\$50,000 for each retailer's branch location;~~
- ~~[(4) \$50,000 for a rebuilder;~~
- ~~[(5) \$50,000 for a broker; or~~
- (4) ~~[(6)]~~ \$25,000 for an installer.

SECTION 4.11. Section 1201.110, Occupations Code, is amended to read as follows:

Sec. 1201.110. SECURITY: DURATION. The department shall maintain on file a security other than a bond canceled as provided by Section 1201.109(a) until the later of:

- (1) the second anniversary of the date the manufacturer, retailer, broker, or installer, ~~or rebuilder~~ ceases doing business; or
- (2) the date the director determines that a claim does not exist against the security.

SECTION 4.12. Section 1201.116(a), Occupations Code, is amended to read as follows:

(a) The department shall renew a license if, before the expiration date of the license, the department receives the renewal application and payment of the required fee as well as the cost required under Section 1201.1031 ~~[before the expiration date of the license]~~.

SECTION 4.13. Section 1201.303, Occupations Code, is amended by amending Subsection (b) and adding Subsections (c), (d), (e), (f), and (g) to read as follows:

(b) The department shall establish an installation inspection program in which at least 75 ~~[25]~~ percent of installed manufactured homes are inspected on a sample basis for compliance with the standards and rules adopted and orders issued by the director. The program must place priority on inspecting multisection homes and homes installed in Wind Zone II counties.

(c) On or after January 1, 2015, the director by rule shall establish a third-party installation inspection program to supplement the inspections of the department if the department is not able to inspect at least 75 percent of manufactured homes installed in each of the calendar years 2012, 2013, and 2014.

(d) The third-party installation inspection program established under Subsection (c) must:

(1) establish qualifications for third-party inspectors to participate in the program;

(2) require third-party inspectors to register with the department before participating in the program;

(3) establish a biennial registration and renewal process for third-party inspectors;

(4) require the list of registered third-party inspectors to be posted on the department's Internet website;

(5) establish clear processes governing inspection fees and payment to third-party inspectors;

(6) establish the maximum inspection fee that may be charged to a consumer;

(7) require a third-party inspection to occur not later than the 14th day after the date of installation of the manufactured home;

(8) establish a process for a retailer or broker to contract, as part of the sale of a new or used manufactured home, with an independent third-party inspector to inspect the installation of the home;

(9) establish a process for an installer to schedule an inspection for each consumer-to-consumer sale where a home is reinstalled;

(10) if a violation is noted in an inspection, require the installer to:

(A) remedy the violations noted;

(B) have the home reinspected at the installer's expense; and

(C) certify to the department that all violations have been corrected;

(11) require an inspector to report inspection results to the retailer, installer, and the department;

(12) require all persons receiving inspection results under Subdivision (11) to maintain a record of the results at least until the end of the installation warranty period;

(13) authorize the department to charge a filing fee and an inspection fee for third-party inspections;

(14) authorize the department to continue to conduct no-charge complaint inspections under Section 1201.355 on request, but only after an initial installation inspection is completed;

(15) establish procedures to revoke the registration of inspectors who fail to comply with rules adopted under this section; and

(16) require the department to notify the relevant state agency if the department revokes an inspector registration based on a violation that is relevant to a license issued to the applicable person by another state agency.

(e) Not later than January 1, 2015, the department shall submit to the Legislative Budget Board, the Governor's Office of Budget, Planning, and Policy, and the standing committee of each house of the legislature having primary jurisdiction over housing a report concerning whether the department inspected at least 75 percent of manufactured homes installed in each of the calendar years 2012, 2013, and 2014.

(f) Not later than December 1, 2015, the director shall adopt rules as necessary to implement Subsections (c) and (d) if the department did not inspect at least 75 percent of manufactured homes installed in each of the calendar years 2012, 2013, and 2014. Not later than January 1, 2016, the department shall begin registering third-party inspectors under Subsections (c) and (d) if the department inspections did not occur as described by this subsection.

(g) If the department is not required to establish a third-party installation inspection program as provided by Subsection (c), Subsections (c), (d), (e), and (f) and this subsection expire September 1, 2016.

SECTION 4.14. Section 1201.357, Occupations Code, is amended by adding Subsection (b-1) to read as follows:

(b-1) As authorized by Section 1201.6041, the director may order a manufacturer, retailer, or installer, as applicable, to pay a refund directly to a consumer as part of an agreed order described by Subsection (b) instead of or in addition to instituting an administrative action under this chapter.

SECTION 4.15. Section 1201.461(d), Occupations Code, is amended to read as follows:

(d) A person may not sell, convey, or otherwise transfer to a consumer in this state a manufactured home that is salvaged. A salvaged manufactured home may be sold only to a licensed retailer ~~[or licensed rebuilder]~~.

SECTION 4.16. Subchapter M, Chapter 1201, Occupations Code, is amended by adding Section 1201.6041 to read as follows:

Sec. 1201.6041. DIRECT CONSUMER COMPENSATION. (a) Instead of requiring a consumer to apply for compensation from the trust fund under Subchapter I, the director may order a manufacturer, retailer, broker, or installer, as applicable, to pay a refund directly to a consumer who sustains actual damages resulting from an unsatisfied claim against a licensed manufacturer, retailer, broker, or installer if the unsatisfied claim results from a violation of:

- (1) this chapter;
- (2) a rule adopted by the director;
- (3) the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. Section 5401 et seq.);
- (4) a rule or regulation of the United States Department of Housing and Urban Development; or
- (5) Subchapter E, Chapter 17, Business & Commerce Code.

(b) For purposes of this section, the refund of a consumer's actual damages is determined according to Section 1201.405.

(c) The director shall prepare information for notifying consumers of the director's option to order a direct refund under this section, shall post the information on the department's Internet website, and shall make printed copies available on request.

SECTION 4.17. Sections 1201.610(a), (b), and (f), Occupations Code, are amended to read as follows:

(a) ~~The [If the director has reasonable cause to believe that a person licensed under this chapter has violated or is about to violate any provision of this chapter or rules adopted by the department under this chapter, the]~~ director may issue without notice and hearing an order to cease and desist from continuing a particular action or an order to take affirmative action, or both, to enforce compliance with this chapter if the director has reasonable cause to believe that a person has violated or is about to violate any provision of this chapter or a rule adopted under this chapter.

(b) The director may issue an order to any person ~~[licensee]~~ to cease and desist from violating any law, rule, or written agreement or to take corrective action with respect to any such violations if the violations in any way are related to the sale, financing, or installation of a manufactured home or the providing of goods or services in connection with the sale, financing, or installation of a manufactured home unless the matter that is the basis of such violation is expressly subject to inspection and regulation by another state agency; provided, however, that if any matter involves a law that is subject to any other administration or interpretation by another agency, the director shall consult with the person in charge of the day-to-day administration of that agency before issuing an order.

(f) If a person licensed under this chapter fails to pay an administrative penalty that has become final or fails to comply with an order of the director that has become final, in addition to any other remedy provided by law, the director, after not less than 10 days' notice to the person, may without a prior hearing suspend the person's license. The suspension shall continue until the person has complied with the cease and desist order or paid the administrative penalty. During the period of suspension, the person may not perform any act requiring a license under this chapter, and all compensation received by the person during the period of suspension is subject to forfeiture to the person from whom it was received.

SECTION 4.18. Section 1302.061, Occupations Code, is amended to read as follows:

Sec. 1302.061. MANUFACTURED HOMES. This chapter does not apply to a person or entity licensed as a manufacturer, retailer, ~~[rebuilder]~~ or installer under Chapter 1201 and engaged exclusively in air conditioning and refrigeration contracting for manufactured homes if the installation of air conditioning components at the site where the home will be occupied is performed by a person licensed under this chapter.

ARTICLE 5. TRANSITION PROVISIONS

SECTION 5.01. (a) Not later than October 1, 2011, the governor shall designate a state agency or office to be the primary agency or office in charge of coordinating the distribution of long-term disaster recovery funding as required under Section 2306.531, Government Code, as added by this Act.

(b) Not later than March 1, 2012, the designated agency or office shall develop the plan required under Section 2306.531, Government Code, as added by this Act.

(c) Not later than May 1, 2012, the designated agency or office shall obtain the governor's approval of the plan developed under Section 2306.531, Government Code, as added by this Act.

SECTION 5.02. The change in law made by this Act to Sections 2306.043, 2306.044, 2306.045, 2306.046, and 2306.049, Government Code, applies only to a violation committed on or after the effective date of this Act. A violation committed before the effective date of this Act is governed by the law in effect when the violation was committed, and the former law is continued in effect for that purpose.

SECTION 5.03. The change in law made by this Act to Section 2306.6022, Government Code, applies only to a complaint filed on or after the effective date of this Act. A complaint filed before the effective date of this Act is governed by the law in effect at the time the complaint was filed, and the former law is continued in effect for that purpose.

SECTION 5.04. The changes in law made by this Act to Sections 2306.6702, 2306.6710, 2306.6711, and 2306.6718, Government Code, apply only to an application for low income housing tax credits that is submitted to the Texas Department of Housing and Community Affairs during an application cycle that begins on or after the effective date of this Act. An application that is submitted during an application cycle that began before the effective date of this Act is governed by the law in effect at the time the application cycle began, and the former law is continued in effect for that purpose.

SECTION 5.05. Notwithstanding Sections 1201.101(f-1) and 1201.106(a), Occupations Code, as amended by this Act, a retailer licensed to operate one or more branch locations on or before the effective date of this Act is not required to comply with the changes in law made by those sections until March 1, 2012.

SECTION 5.06. (a) The change in law made by this Act in amending Sections 1201.103 and 1201.104, Occupations Code, applies only to an application for a license filed with the executive director of the manufactured housing division of the Texas Department of Housing and Community Affairs on or after the effective date of this Act. An application for a license filed before that date is governed by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose.

(b) The change in law made by this Act in adding Section 1201.1031, Occupations Code, applies only to an application for a license or license renewal filed with the executive director of the manufactured housing division of the Texas Department of Housing and Community Affairs on or after the effective

date of this Act. An application for a license or license renewal filed before that date is governed by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose.

(c) The change in law made by this Act in amending Section 1201.116, Occupations Code, applies only to an application for a license renewal filed with the executive director of the manufactured housing division of the Texas Department of Housing and Community Affairs on or after the effective date of this Act. An application for a license renewal filed before that date is governed by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose.

ARTICLE 6. EFFECTIVE DATE

SECTION 6.01. This Act takes effect September 1, 2011.

Representative Harper-Brown moved to adopt the conference committee report on **HB 2608**.

The motion to adopt the conference committee report on **HB 2608** prevailed by (Record 1719): 144 Yeas, 3 Nays, 1 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; 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; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; 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.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Isaac; Landtroop; Simpson.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Burnam; Miles.

SB 1543 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Larson submitted the conference committee report on **SB 1543**.

Representative Larson moved to adopt the conference committee report on **SB 1543**.

The motion to adopt the conference committee report on **SB 1543** prevailed by (Record 1720): 140 Yeas, 6 Nays, 1 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Bohac; Bonnen; Branch; Brown; Burkett; 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; 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; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; 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; Woolley; Workman; Zerwas.

Nays — Berman; Flynn; Landtroop; Perry; White; Zedler.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Burnam; Miles.

Absent — Hughes.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1720. I intended to vote no.

Christian

I was shown voting yes on Record No. 1720. I intended to vote no.

Lavender

I was shown voting yes on Record No. 1720. I intended to vote no.

Simpson

SB 1788 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Huberty submitted the conference committee report on **SB 1788**.

Representative Huberty moved to adopt the conference committee report on **SB 1788**.

The motion to adopt the conference committee report on **SB 1788** prevailed by (Record 1721): 144 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; 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; 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, Excused — Burnam; Miles.

Absent — Anderson, R.; Callegari; Miller, S.

HB 300 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Kolkhorst submitted the following conference committee report on **HB 300**:

Austin, Texas, May 28, 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 300** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Nelson
Huffman
Nichols
Shapiro

Kolkhorst
Flynn
Laubenberg
Naishtat
Truitt

On the part of the senate

On the part of the house

HB 300, A bill to be entitled An Act relating to the privacy of protected health information; providing administrative, civil, and criminal penalties.

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

SECTION 1. Section 181.001(b), Health and Safety Code, is amended by amending Subdivisions (1) and (3) and adding Subdivisions (2-a) and (2-b) to read as follows:

(1) "Commission" ["Commissioner"] means the Health and Human Services Commission [commissioner of health and human services].

(2-a) "Disclose" means to release, transfer, provide access to, or otherwise divulge information outside the entity holding the information.

(2-b) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

(3) "Health Insurance Portability and Accountability Act and Privacy Standards" means the privacy requirements in existence on September 1, 2011 [August 14, 2002], of the Administrative Simplification subtitle of the Health Insurance Portability and Accountability Act of 1996 (Pub. L. No. 104-191) contained in 45 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A and E.

SECTION 2. Subchapter A, Chapter 181, Health and Safety Code, is amended by adding Section 181.004 to read as follows:

Sec. 181.004. APPLICABILITY OF STATE AND FEDERAL LAW. (a) A covered entity, as that term is defined by 45 C.F.R. Section 160.103, shall comply with the Health Insurance Portability and Accountability Act and Privacy Standards.

(b) Subject to Section 181.051, a covered entity, as that term is defined by Section 181.001, shall comply with this chapter.

SECTION 3. Section 181.005, Health and Safety Code, is amended to read as follows:

Sec. 181.005. DUTIES OF THE EXECUTIVE COMMISSIONER. (a) The executive commissioner shall administer this chapter and may adopt rules consistent with the Health Insurance Portability and Accountability Act and Privacy Standards to administer this chapter.

(b) The executive commissioner shall review amendments to the definitions in 45 C.F.R. Parts 160 and 164 that occur after September 1, 2011 [August 14, 2002], and determine whether it is in the best interest of the state to adopt the amended federal regulations. If the executive commissioner determines that it is in the best interest of the state to adopt the amended federal regulations, the amended regulations shall apply as required by this chapter.

(c) In making a determination under this section, the executive commissioner must consider, in addition to other factors affecting the public interest, the beneficial and adverse effects the amendments would have on:

(1) the lives of individuals in this state and their expectations of privacy; and

(2) governmental entities, institutions of higher education, state-owned teaching hospitals, private businesses, and commerce in this state.

(d) The executive commissioner shall prepare a report of the executive commissioner's determination made under this section and shall file the report with the presiding officer of each house of the legislature before the 30th day after the date the determination is made. The report must include an explanation of the reasons for the determination.

SECTION 4. Section 181.006, Health and Safety Code, is amended to read as follows:

Sec. 181.006. PROTECTED HEALTH INFORMATION NOT PUBLIC. Notwithstanding Sections 181.004 and 181.051, for ~~For~~ a covered entity that is a governmental unit, an individual's protected health information:

(1) includes any information that reflects that an individual received health care from the covered entity; and

(2) is not public information and is not subject to disclosure under Chapter 552, Government Code.

SECTION 5. Subchapter B, Chapter 181, Health and Safety Code, is amended by adding Section 181.059 to read as follows:

Sec. 181.059. CRIME VICTIM COMPENSATION. This chapter does not apply to any person or entity in connection with providing, administering, supporting, or coordinating any of the benefits regarding compensation to victims of crime as provided by Subchapter B, Chapter 56, Code of Criminal Procedure.

SECTION 6. Chapter 181, Health and Safety Code, is amended by adding Subchapter C to read as follows:

SUBCHAPTER C. ACCESS TO AND USE OF PROTECTED HEALTH INFORMATION

Sec. 181.101. TRAINING REQUIRED. (a) Each covered entity shall provide a training program to employees of the covered entity regarding the state and federal law concerning protected health information as it relates to:

- (1) the covered entity's particular course of business; and
- (2) each employee's scope of employment.

(b) An employee of a covered entity must complete training described by Subsection (a) not later than the 60th day after the date the employee is hired by the covered entity.

(c) An employee of a covered entity shall receive training described by Subsection (a) at least once every two years.

(d) A covered entity shall require an employee of the entity who attends a training program described by Subsection (a) to sign, electronically or in writing, a statement verifying the employee's attendance at the training program. The covered entity shall maintain the signed statement.

Sec. 181.102. CONSUMER ACCESS TO ELECTRONIC HEALTH RECORDS. (a) Except as provided by Subsection (b), if a health care provider is using an electronic health records system that is capable of fulfilling the request, the health care provider, not later than the 15th business day after the date the health care provider receives a written request from a person for the person's electronic health record, shall provide the requested record to the person in electronic form unless the person agrees to accept the record in another form.

(b) A health care provider is not required to provide access to a person's protected health information that is excepted from access, or to which access may be denied, under 45 C.F.R. Section 164.524.

(c) For purposes of Subsection (a), the executive commissioner, in consultation with the Department of State Health Services, the Texas Medical Board, and the Texas Department of Insurance, by rule may recommend a

standard electronic format for the release of requested health records. The standard electronic format recommended under this section must be consistent, if feasible, with federal law regarding the release of electronic health records.

Sec. 181.103. CONSUMER INFORMATION WEBSITE. The attorney general shall maintain an Internet website that provides:

(1) information concerning a consumer's privacy rights regarding protected health information under federal and state law;

(2) a list of the state agencies, including the Department of State Health Services, the Texas Medical Board, and the Texas Department of Insurance, that regulate covered entities in this state and the types of entities each agency regulates;

(3) detailed information regarding each agency's complaint enforcement process; and

(4) contact information, including the address of the agency's Internet website, for each agency listed under Subdivision (2) for reporting a violation of this chapter.

Sec. 181.104. CONSUMER COMPLAINT REPORT BY ATTORNEY GENERAL. (a) The attorney general annually shall submit to the legislature a report describing:

(1) the number and types of complaints received by the attorney general and by the state agencies receiving consumer complaints under Section 181.103; and

(2) the enforcement action taken in response to each complaint reported under Subdivision (1).

(b) Each state agency that receives consumer complaints under Section 181.103 shall submit to the attorney general, in the form required by the attorney general, the information the attorney general requires to compile the report required by Subsection (a).

(c) The attorney general shall de-identify protected health information from the individual to whom the information pertains before including the information in the report required by Subsection (a).

SECTION 7. Subchapter D, Chapter 181, Health and Safety Code, is amended by adding Sections 181.153 and 181.154 to read as follows:

Sec. 181.153. SALE OF PROTECTED HEALTH INFORMATION PROHIBITED; EXCEPTIONS. (a) A covered entity may not disclose an individual's protected health information to any other person in exchange for direct or indirect remuneration, except that a covered entity may disclose an individual's protected health information:

(1) to another covered entity, as that term is defined by Section 181.001, or to a covered entity, as that term is defined by Section 602.001, Insurance Code, for the purpose of:

(A) treatment;

(B) payment;

(C) health care operations; or

(D) performing an insurance or health maintenance organization function described by Section 602.053, Insurance Code; or

(2) as otherwise authorized or required by state or federal law.

(b) The direct or indirect remuneration a covered entity receives for making a disclosure of protected health information authorized by Subsection (a)(1)(D) may not exceed the covered entity's reasonable costs of preparing or transmitting the protected health information.

Sec. 181.154. NOTICE AND AUTHORIZATION REQUIRED FOR ELECTRONIC DISCLOSURE OF PROTECTED HEALTH INFORMATION; EXCEPTIONS. (a) A covered entity shall provide notice to an individual for whom the covered entity creates or receives protected health information if the individual's protected health information is subject to electronic disclosure. A covered entity may provide general notice by:

(1) posting a written notice in the covered entity's place of business;

(2) posting a notice on the covered entity's Internet website; or

(3) posting a notice in any other place where individuals whose protected health information is subject to electronic disclosure are likely to see the notice.

(b) Except as provided by Subsection (c), a covered entity may not electronically disclose an individual's protected health information to any person without a separate authorization from the individual or the individual's legally authorized representative for each disclosure. An authorization for disclosure under this subsection may be made in written or electronic form or in oral form if it is documented in writing by the covered entity.

(c) The authorization for electronic disclosure of protected health information described by Subsection (b) is not required if the disclosure is made:

(1) to another covered entity, as that term is defined by Section 181.001, or to a covered entity, as that term is defined by Section 602.001, Insurance Code, for the purpose of:

(A) treatment;

(B) payment;

(C) health care operations; or

(D) performing an insurance or health maintenance organization function described by Section 602.053, Insurance Code; or

(2) as otherwise authorized or required by state or federal law.

(d) The attorney general shall adopt a standard authorization form for use in complying with this section. The form must comply with the Health Insurance Portability and Accountability Act and Privacy Standards and this chapter.

(e) This section does not apply to a covered entity, as defined by Section 602.001, Insurance Code, if that entity is not a covered entity as defined by 45 C.F.R. Section 160.103.

SECTION 8. Section 181.201, Health and Safety Code, is amended by amending Subsections (b) and (c) and adding Subsections (b-1), (d), (e), and (f) to read as follows:

(b) In addition to the injunctive relief provided by Subsection (a), the attorney general may institute an action for civil penalties against a covered entity for a violation of this chapter. A civil penalty assessed under this section may not exceed:

(1) \$5,000 [~~\$3,000~~] for each violation that occurs in one year, regardless of how long the violation continues during that year, committed negligently;

(2) \$25,000 for each violation that occurs in one year, regardless of how long the violation continues during that year, committed knowingly or intentionally; or

(3) \$250,000 for each violation in which the covered entity knowingly or intentionally used protected health information for financial gain.

(b-1) The total amount of a penalty assessed against a covered entity under Subsection (b) in relation to a violation or violations of Section 181.154 may not exceed \$250,000 annually if the court finds that the disclosure was made only to another covered entity and only for a purpose described by Section 181.154(c) and the court finds that:

(1) the protected health information disclosed was encrypted or transmitted using encryption technology designed to protect against improper disclosure;

(2) the recipient of the protected health information did not use or release the protected health information; or

(3) at the time of the disclosure of the protected health information, the covered entity had developed, implemented, and maintained security policies, including the education and training of employees responsible for the security of protected health information.

(c) If the court in which an action under Subsection (b) is pending finds that the violations have occurred with a frequency as to constitute a pattern or practice, the court may assess a civil penalty not to exceed \$1.5 million annually [~~\$250,000~~].

(d) In determining the amount of a penalty imposed under Subsection (b), the court shall consider:

(1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of the disclosure;

(2) the covered entity's compliance history;

(3) whether the violation poses a significant risk of financial, reputational, or other harm to an individual whose protected health information is involved in the violation;

(4) whether the covered entity was certified at the time of the violation as described by Section 182.108;

(5) the amount necessary to deter a future violation; and

(6) the covered entity's efforts to correct the violation.

(e) The attorney general may institute an action against a covered entity that is licensed by a licensing agency of this state for a civil penalty under this section only if the licensing agency refers the violation to the attorney general under Section 181.202(2).

(f) The office of the attorney general may retain a reasonable portion of a civil penalty recovered under this section, not to exceed amounts specified in the General Appropriations Act, for the enforcement of this subchapter.

SECTION 9. Section 181.202, Health and Safety Code, is amended to read as follows:

Sec. 181.202. DISCIPLINARY ACTION. In addition to the penalties prescribed by this chapter, a violation of this chapter by a covered entity ~~an individual or facility~~ that is licensed by an agency of this state is subject to investigation and disciplinary proceedings, including probation or suspension by the licensing agency. If there is evidence that the violations of this chapter are egregious and constitute a pattern or practice, the agency may:

- (1) revoke the covered entity's ~~individual's or facility's~~ license; or
- (2) refer the covered entity's case to the attorney general for the institution of an action for civil penalties under Section 181.201(b).

SECTION 10. Section 181.205, Health and Safety Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) In determining the amount of a penalty imposed under other law in accordance with Section 181.202, a court or state agency shall consider the following factors:

- (1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of the disclosure;
- (2) the covered entity's compliance history;
- (3) whether the violation poses a significant risk of financial, reputational, or other harm to an individual whose protected health information is involved in the violation;
- (4) whether the covered entity was certified at the time of the violation as described by Section 182.108;
- (5) the amount necessary to deter a future violation; and
- (6) the covered entity's efforts to correct the violation.

(c) On receipt of evidence under Subsections ~~Subsection~~ (a) and (b), a court or state agency shall consider the evidence and mitigate imposition of an administrative penalty or assessment of a civil penalty accordingly.

SECTION 11. Subchapter E, Chapter 181, Health and Safety Code, is amended by adding Sections 181.206 and 181.207 to read as follows:

Sec. 181.206. AUDITS OF COVERED ENTITIES. (a) The commission, in coordination with the attorney general, the Texas Health Services Authority, and the Texas Department of Insurance:

- (1) may request that the United States secretary of health and human services conduct an audit of a covered entity, as that term is defined by 45 C.F.R. Section 160.103, in this state to determine compliance with the Health Insurance Portability and Accountability Act and Privacy Standards; and
- (2) shall periodically monitor and review the results of audits of covered entities in this state conducted by the United States secretary of health and human services.

(b) If the commission has evidence that a covered entity has committed violations of this chapter that are egregious and constitute a pattern or practice, the commission may:

(1) require the covered entity to submit to the commission the results of a risk analysis conducted by the covered entity if required by 45 C.F.R. Section 164.308(a)(1)(ii)(A); or

(2) if the covered entity is licensed by a licensing agency of this state, request that the licensing agency conduct an audit of the covered entity's system to determine compliance with the provisions of this chapter.

(c) The commission annually shall submit to the appropriate standing committees of the senate and the house of representatives a report regarding the number of federal audits of covered entities in this state and the number of audits required under Subsection (b).

Sec. 181.207. FUNDING. The commission and the Texas Department of Insurance, in consultation with the Texas Health Services Authority, shall apply for and actively pursue available federal funding for enforcement of this chapter.

SECTION 12. Section 182.002, Health and Safety Code, is amended by adding Subdivisions (2-a), (3-a), and (3-b) to read as follows:

(2-a) "Covered entity" has the meaning assigned by Section 181.001.

(3-a) "Disclose" has the meaning assigned by Section 181.001.

(3-b) "Health Insurance Portability and Accountability Act and Privacy Standards" has the meaning assigned by Section 181.001.

SECTION 13. Subchapter C, Chapter 182, Health and Safety Code, is amended by adding Section 182.108 to read as follows:

Sec. 182.108. STANDARDS FOR ELECTRONIC SHARING OF PROTECTED HEALTH INFORMATION; COVERED ENTITY CERTIFICATION. (a) The corporation shall develop and submit to the commission for ratification privacy and security standards for the electronic sharing of protected health information.

(b) The commission shall review and by rule adopt acceptable standards submitted for ratification under Subsection (a).

(c) Standards adopted under Subsection (b) must be designed to:

(1) comply with the Health Insurance Portability and Accountability Act and Privacy Standards and Chapter 181;

(2) comply with any other state and federal law relating to the security and confidentiality of information electronically maintained or disclosed by a covered entity;

(3) ensure the secure maintenance and disclosure of personally identifiable health information;

(4) include strategies and procedures for disclosing personally identifiable health information; and

(5) support a level of system interoperability with existing health record databases in this state that is consistent with emerging standards.

(d) The corporation shall establish a process by which a covered entity may apply for certification by the corporation of a covered entity's past compliance with standards adopted under Subsection (b).

(e) The corporation shall publish the standards adopted under Subsection (b) on the corporation's Internet website.

SECTION 14. Section 521.053, Business & Commerce Code, is amended by amending Subsection (b) and adding Subsection (b-1) to read as follows:

(b) A person who conducts business in this state and owns or licenses computerized data that includes sensitive personal information shall disclose any breach of system security, after discovering or receiving notification of the breach, to any individual ~~[resident of this state]~~ whose sensitive personal information was, or is reasonably believed to have been, acquired by an unauthorized person. The disclosure shall be made as quickly as possible, except as provided by Subsection (d) or as necessary to determine the scope of the breach and restore the reasonable integrity of the data system.

(b-1) Notwithstanding Subsection (b), the requirements of Subsection (b) apply only if the individual whose sensitive personal information was or is reasonably believed to have been acquired by an unauthorized person is a resident of this state or another state that does not require a person described by Subsection (b) to notify the individual of a breach of system security. If the individual is a resident of a state that requires a person described by Subsection (b) to provide notice of a breach of system security, the notice of the breach of system security provided under that state's law satisfies the requirements of Subsection (b).

SECTION 15. Section 521.151, Business & Commerce Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) In addition to penalties assessed under Subsection (a), a person who fails to take reasonable action to comply with Section 521.053(b) is liable to this state for a civil penalty of not more than \$100 for each individual to whom notification is due under that subsection for each consecutive day that the person fails to take reasonable action to comply with that subsection. Civil penalties under this section may not exceed \$250,000 for all individuals to whom notification is due after a single breach. The attorney general may bring an action to recover the civil penalties imposed under this subsection.

SECTION 16. Section 522.002(b), Business & Commerce Code, is amended to read as follows:

(b) An offense under this section is a Class B misdemeanor, except that the offense is a state jail felony if the information accessed, read, scanned, stored, or transferred was protected health information as defined by the Health Insurance Portability and Accountability Act and Privacy Standards, as defined by Section 181.001, Health and Safety Code.

SECTION 17. Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.0994 to read as follows:

Sec. 531.0994. STUDY; ANNUAL REPORT. (a) The commission, in consultation with the Department of State Health Services, the Texas Medical Board, and the Texas Department of Insurance, shall explore and evaluate new developments in safeguarding protected health information.

(b) Not later than December 1 each year, the commission shall report to the legislature on new developments in safeguarding protected health information and recommendations for the implementation of safeguards within the commission.

SECTION 18. Subchapter B, Chapter 602, Insurance Code, is amended by adding Section 602.054 to read as follows:

Sec. 602.054. COMPLIANCE WITH OTHER LAW. A covered entity shall comply with:

(1) Subchapter D, Chapter 181, Health and Safety Code, except as otherwise provided by that subchapter; and

(2) the standards adopted under Section 182.108, Health and Safety Code.

SECTION 19. (a) In this section, "unsustainable covered entity" means a covered entity, as defined by Section 181.001, Health and Safety Code, that ceases to operate.

(b) The Health and Human Services Commission, in consultation with the Texas Health Services Authority and the Texas Medical Board, shall review issues regarding the security and accessibility of protected health information maintained by an unsustainable covered entity.

(c) Not later than December 1, 2012, the Health and Human Services Commission shall submit to the appropriate standing committees of the senate and the house of representatives recommendations for:

(1) the state agency to which the protected health information maintained by an unsustainable covered entity should be transferred for storage;

(2) ensuring the security of protected health information maintained by unsustainable covered entities in this state, including secure transfer methods from the covered entity to the state;

(3) the method and period of time for which protected health information should be maintained by the state after transfer from an unsustainable covered entity;

(4) methods and processes by which an individual should be able to access the individual's protected health information after transfer to the state; and

(5) funding for the storage of protected health information after transfer to the state.

(d) This section expires January 1, 2013.

SECTION 20. (a) A task force on health information technology is created.

(b) The task force is composed of:

(1) 11 members appointed by the attorney general with the advice of the chairs of the standing committees of the senate and house of representatives having primary jurisdiction over health information technology issues, including:

(A) at least two physicians;

(B) at least two individuals who represent hospitals;

(C) at least one private citizen who represents patient and parental rights; and

(D) at least one pharmacist; and

(2) the following ex officio members:

(A) the executive commissioner of the Health and Human Services Commission or an employee of the commission designated by the executive commissioner;

(B) the commissioner of the Department of State Health Services or an employee of the department designated by the commissioner; and

(C) the presiding officer of the Texas Health Services Authority or an employee of the authority designated by the presiding officer.

(c) Not later than December 1, 2012, the attorney general shall appoint the members of the task force and appoint a chair of the task force from among its membership. The chair of the task force must have expertise in:

- (1) state and federal health information privacy law;
- (2) patient rights; and
- (3) electronic signatures and other consent tools.

(d) The task force shall develop recommendations regarding:

(1) the improvement of informed consent protocols for the electronic exchange of protected health information, as that term is defined by the Health Insurance Portability and Accountability Act and Privacy Standards, as defined by Section 181.001, Health and Safety Code, as amended by this Act;

(2) the improvement of patient access to and use of electronically maintained and disclosed protected health information for the purpose of personal health and coordination of health care services; and

(3) any other critical issues, as determined by the task force, related to the exchange of protected health information.

(e) Not later than January 1, 2014, the task force shall submit to the standing committees of the senate and house of representatives having primary jurisdiction over health information technology issues and the Texas Health Services Authority a report including the task force's recommendations under Subsection (d).

(f) The Texas Health Services Authority shall publish the report submitted under Subsection (e) on the authority's Internet website.

(g) This section expires February 1, 2014.

SECTION 21. Section 531.0315(b), Government Code, is repealed.

SECTION 22. Not later than January 1, 2013:

(1) the attorney general shall adopt the form required by Section 181.154, Health and Safety Code, as added by this Act; and

(2) the Health and Human Services Commission shall adopt the standards required by Section 182.108, Health and Safety Code, as added by this Act.

SECTION 23. (a) Not later than May 1, 2013, the attorney general shall establish the Internet website required by Section 181.103, Health and Safety Code, as added by this Act.

(b) Not later than December 1, 2013, the attorney general shall submit the initial report required by Section 181.104, Health and Safety Code, as added by this Act.

SECTION 24. Not later than December 1, 2013, the Health and Human Services Commission shall submit the initial report required by Section 531.0994, Government Code, as added by this Act.

SECTION 25. The changes in law made by Section 181.201, Health and Safety Code, as amended by this Act, Section 521.053, Business & Commerce Code, as amended by this Act, and Section 521.151(a-1), Business & Commerce Code, as added by this Act, apply only to conduct that occurs on or after the effective date of this Act. Conduct that occurs before the effective date of this Act is governed by the law in effect at the time the conduct occurred, and the former law is continued in effect for that purpose.

SECTION 26. The change in law made by Section 522.002(b), Business & Commerce Code, as amended by this Act, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect at the time the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

SECTION 27. This Act takes effect September 1, 2012.

Representative Kolkhorst moved to adopt the conference committee report on **HB 300**.

The motion to adopt the conference committee report on **HB 300** prevailed by (Record 1722): 145 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; 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 Fischer; McClendon; Menendez; 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; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Burnam; Miles.

Absent — Martinez; White.

HB 362 - CO-AUTHOR AUTHORIZED

On motion of Representative Solomons, Representative Workman was authorized as a co-author to **HB 362**.

HR 2688 - ADOPTED
(by Solomons)

The following privileged resolution was laid before the house:

HR 2688

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 362** (regulation by a property owners' association of the installation of solar energy devices and certain roofing materials on property) to consider and take action on the following matters:

(1) House Rule 13, Section 9(a)(3), is suspended to permit the committee, in SECTION 1 of the bill, in added Section 202.010(a), Property Code, to add text on a matter which is not in disagreement to read as follows:

(1) "Development period" means a period stated in a declaration during which a declarant reserves:

(A) a right to facilitate the development, construction, and marketing of the subdivision; and

(B) a right to direct the size, shape, and composition of the subdivision.

(2) House Rule 13, Section 9(a)(3), is suspended to permit the committee, in SECTION 1 of the bill, in added Section 202.010, Property Code, to add text on a matter which is not in disagreement to read as follows:

(f) During the development period, the declarant may prohibit or restrict a property owner from installing a solar energy device.

(3) House Rule 13, Section 9(a)(1), is suspended to permit the committee, in SECTION 1 of the bill, in added Section 202.011(1), Property Code, to change text on a matter which is not in disagreement to read as follows:

(1) are designed primarily to:

(A) be wind and hail resistant;

(B) provide heating and cooling efficiencies greater than those provided by customary composite shingles; or

(C) provide solar generation capabilities; and

Explanation: These changes are necessary to:

(1) clarify the application of provisions relating to the regulation of solar energy devices by property owners' associations; and

(2) modify the authority granted to property owners' associations relating to the installation of certain roofing materials.

HR 2688 was adopted by (Record 1723): 142 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; 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; 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.; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; 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; White; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Burnam; Miles.

Absent — Aliseda; Davis, S.; Gallego; Kleinschmidt; Weber.

STATEMENT OF VOTE

When Record No. 1723 was taken, my vote failed to register. I would have voted yes.

Weber

HB 362 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Solomons submitted the following conference committee report on **HB 362**:

Austin, Texas, May 28, 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 362** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

West
Nichols
Wentworth
Patrick

Solomons
Bohac
Deshotel
Giddings
Orr

On the part of the senate

On the part of the house

HB 362, A bill to be entitled An Act relating to the regulation by a property owners' association of the installation of solar energy devices and certain roofing materials on property.

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

SECTION 1. Chapter 202, Property Code, is amended by adding Sections 202.010 and 202.011 to read as follows:

Sec. 202.010. REGULATION OF SOLAR ENERGY DEVICES. (a) In this section:

(1) "Development period" means a period stated in a declaration during which a declarant reserves:

(A) a right to facilitate the development, construction, and marketing of the subdivision; and

(B) a right to direct the size, shape, and composition of the subdivision.

(2) "Solar energy device" has the meaning assigned by Section 171.107, Tax Code.

(b) Except as otherwise provided by Subsection (d), a property owners' association may not include or enforce a provision in a dedicatory instrument that prohibits or restricts a property owner from installing a solar energy device.

(c) A provision that violates Subsection (b) is void.

(d) A property owners' association may include or enforce a provision in a dedicatory instrument that prohibits a solar energy device that:

(1) as adjudicated by a court:

(A) threatens the public health or safety; or

(B) violates a law;

(2) is located on property owned or maintained by the property owners' association;

(3) is located on property owned in common by the members of the property owners' association;

(4) is located in an area on the property owner's property other than:

(A) on the roof of the home or of another structure allowed under a dedicatory instrument; or

(B) in a fenced yard or patio owned and maintained by the property owner;

(5) if mounted on the roof of the home:

(A) extends higher than or beyond the roofline;

(B) is located in an area other than an area designated by the property owners' association, unless the alternate location increases the estimated annual energy production of the device, as determined by using a publicly available modeling tool provided by the National Renewable Energy Laboratory, by more than 10 percent above the energy production of the device if located in an area designated by the property owners' association;

(C) does not conform to the slope of the roof and has a top edge that is not parallel to the roofline; or

(D) has a frame, a support bracket, or visible piping or wiring that is not in a silver, bronze, or black tone commonly available in the marketplace;

(6) if located in a fenced yard or patio, is taller than the fence line;

(7) as installed, voids material warranties; or

(8) was installed without prior approval by the property owners' association or by a committee created in a dedicatory instrument for such purposes that provides decisions within a reasonable period or within a period specified in the dedicatory instrument.

(e) A property owners' association or the association's architectural review committee may not withhold approval for installation of a solar energy device if the provisions of the dedicatory instruments to the extent authorized by Subsection (d) are met or exceeded, unless the association or committee, as applicable, determines in writing that placement of the device as proposed by the property owner constitutes a condition that substantially interferes with the use and enjoyment of land by causing unreasonable discomfort or annoyance to persons of ordinary sensibilities. For purposes of making a determination under this subsection, the written approval of the proposed placement of the device by all property owners of adjoining property constitutes prima facie evidence that such a condition does not exist.

(f) During the development period, the declarant may prohibit or restrict a property owner from installing a solar energy device.

Sec. 202.011. REGULATION OF CERTAIN ROOFING MATERIALS. A property owners' association may not include or enforce a provision in a dedicatory instrument that prohibits or restricts a property owner who is otherwise authorized to install shingles on the roof of the owner's property from installing shingles that:

(1) are designed primarily to:

(A) be wind and hail resistant;

(B) provide heating and cooling efficiencies greater than those provided by customary composite shingles; or

(C) provide solar generation capabilities; and

(2) when installed:

(A) resemble the shingles used or otherwise authorized for use on property in the subdivision;

(B) are more durable than and are of equal or superior quality to the shingles described by Paragraph (A); and

(C) match the aesthetics of the property surrounding the owner's property.

SECTION 2. Sections 202.010 and 202.011, Property Code, as added by this Act, apply to a dedicatory instrument without regard to whether the dedicatory instrument takes effect or is renewed before, on, or after the effective date of this Act.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2011.

Representative Solomons moved to adopt the conference committee report on **HB 362**.

The motion to adopt the conference committee report on **HB 362** prevailed by (Record 1724): 143 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; 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; 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; 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.; Taylor, V.; Thompson; Torres; Truitt; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Simpson.

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

Absent, Excused — Burnam; Miles.

Absent — Harper-Brown; Turner.

SB 1198 - HOUSE DISCHARGES CONFEREES

Representative Hartnett moved to discharge the conferees on **SB 1198**.

The motion to discharge the conferees on **SB 1198** prevailed.

HR 2689 - ADOPTED (by McClendon)

The following privileged resolution was laid before the house:

HR 2689

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 2327** (establishment and operation of a motor-bus-only lane pilot program in certain counties) to consider and take action on the following matter:

House Rule 13, Section 9(a)(3), is suspended to permit the committee to add text on a matter which is not in disagreement by adding text in SECTION 1 of the bill, in added Section 455.006(a), Transportation Code, to read as follows:

(a) The department, in consultation with the Department of Public Safety and in conjunction with and with the elective participation of the appropriate metropolitan rapid transit authorities, county transportation authorities, municipal transit departments, and regional transportation authorities and the municipalities

served by those mass transit entities, shall establish and operate a motor-bus-only lane pilot program for highways in Bexar, El Paso, Tarrant, and Travis Counties that are part of the state highway system and have shoulders of sufficient width and structural integrity.

Explanation: This change is necessary to clarify that a mass transit entity is not required to participate in the establishment and operation of the motor-bus-only lane pilot program.

HR 2689 was adopted by (Record 1725): 101 Yeas, 40 Nays, 1 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, R.; Aycock; Branch; Brown; Button; Callegari; Carter; Castro; Chisum; Coleman; Craddick; Darby; Davis, J.; Davis, S.; Davis, Y.; Dukes; Dutton; Eiland; Eissler; Farias; Farrar; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Harper-Brown; Hernandez Luna; Hochberg; Hopson; Howard, D.; Hughes; Hunter; Johnson; Keffer; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Larson; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Orr; Otto; Patrick; Pickett; Pitts; Quintanilla; Raymond; Reynolds; Ritter; Rodriguez; Schwertner; Scott; Shelton; Smith, W.; Smithee; Strama; Thompson; Torres; Turner; Veasey; Villarreal; Vo; Walle; White; Woolley; Workman; Zedler; Zerwas.

Nays — Anderson, C.; Beck; Berman; Bohac; Bonnen; Burkett; Christian; Cook; Creighton; Driver; Elkins; Fletcher; Flynn; Hancock; Hardcastle; Harless; Hartnett; Hilderbran; Howard, C.; Huberty; Isaac; Jackson; King, P.; Landtroop; Laubenberg; Madden; Parker; Paxton; Perry; Phillips; Price; Riddle; Sheets; Sheffield; Simpson; Smith, T.; Solomons; Taylor, V.; Truitt; Weber.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Burnam; Miles.

Absent — Cain; Crownover; Deshotel; Oliveira; Peña; Taylor, L.

STATEMENTS OF VOTE

I was shown voting no on Record No. 1725. I intended to vote yes.

C. Anderson

I was shown voting no on Record No. 1725. I intended to vote yes.

Berman

HB 2327 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative McClendon submitted the following conference committee report on **HB 2327**:

Austin, Texas, May 28, 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 2327** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Wentworth
Rodriguez
Eltife
Nichols
Harris

McClendon
Rodriguez
Fletcher
Pickett

On the part of the senate

On the part of the house

HB 2327, A bill to be entitled An Act relating to the establishment and operation of a motor-bus-only lane pilot program in certain counties.

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

SECTION 1. Chapter 455, Transportation Code, is amended by adding Section 455.006 to read as follows:

Sec. 455.006. MOTOR-BUS-ONLY LANE PILOT PROGRAM. (a) The department, in consultation with the Department of Public Safety and in conjunction with and with the elective participation of the appropriate metropolitan rapid transit authorities, county transportation authorities, municipal transit departments, and regional transportation authorities and the municipalities served by those mass transit entities, shall establish and operate a motor-bus-only lane pilot program for highways in Bexar, El Paso, Tarrant, and Travis Counties that are part of the state highway system and have shoulders of sufficient width and structural integrity.

(b) The program shall:

(1) provide for the use by motor buses of highway shoulders as a low-speed bypass of congested highway lanes when the speed of vehicles being operated on the main traveled part of the adjacent highways is 35 miles per hour or less;

(2) limit the maximum speed of a motor bus being operated on a motor-bus-only lane to the lower of:

(A) 15 miles per hour greater than the speed of vehicles being operated on the main traveled part of the adjacent highway; or

(B) 35 miles per hour;

(3) provide for attainment of local operational experience with the conversion of existing highway shoulders to motor-bus-only lanes during peak traffic periods;

(4) include consideration of the following:

(A) safety;

(B) travel time and reliability;

(C) driver and passenger perceptions;

(D) level of service and maintenance; and

(E) capital improvements; and

(5) be limited only to public transit motor buses operated by the mass transit entities in the counties specified by Subsection (a).

(c) The department shall also include in the program:

(1) bus driver safety training;

(2) public awareness and education;

(3) bus operating rules that require bus drivers to yield to passenger cars and emergency vehicles; and

(4) roadside signs and pavement markings indicating that affected lanes are reserved for public transit motor-bus-only use.

(d) The department, in coordination with the appropriate mass transit entities under Subsection (a), shall fund the implementation of the program features under Subsection (c). Mass transit entities that participate in the program shall reimburse the department for the funds spent on implementation of the program features. A metropolitan rapid transit authority that includes an advanced transportation district may use funds from the district to pay for expenses associated with the pilot program.

(e) The department shall initiate the motor-bus-only lane program as soon as practicable but not later than December 31, 2011. Not later than December 31, 2013, the department shall submit to the governor, the lieutenant governor, the speaker of the house of representatives, and the presiding officer of each legislative standing committee with primary jurisdiction over transportation a written report that contains:

(1) a description of the results of the program based on local operational experience described in Subsection (b)(3);

(2) any recommendations for changes to the program; and

(3) a plan on how the department will convert the program into a permanent program.

(f) The department may cancel the program if the department finds evidence of a trend of increasing vehicle accidents attributable to operation of buses under the program.

(g) Notwithstanding Subsection (a), the department may not establish or operate a motor-bus-only lane on a highway or toll facility maintained by a regional tollway authority established under Chapter 366 without the authority's consent.

SECTION 2. Section 542.002, Transportation Code, is amended to read as follows:

Sec. 542.002. GOVERNMENT VEHICLES. A provision of this subtitle applicable to an operator of a vehicle applies to the operator of a vehicle owned or operated by the United States, this state, or a political subdivision of this state, except as specifically provided otherwise by this subtitle [~~for an authorized emergency vehicle~~].

SECTION 3. Section 545.058(c), Transportation Code, is amended to read as follows:

(c) A limitation in this section on driving on an improved shoulder does not apply to:

(1) an authorized emergency vehicle responding to a call;

(2) a police patrol; ~~[or]~~

(3) a bicycle; or

(4) a motor bus of a mass transit entity described by Section 455.006 operating on a shoulder designated by the Texas Department of Transportation under that section.

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

Representative McClendon moved to adopt the conference committee report on **HB 2327**.

The motion to adopt the conference committee report on **HB 2327** prevailed by (Record 1726): 114 Yeas, 30 Nays, 1 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Berman; Bohac; Bonnen; Branch; Brown; Cain; Callegari; Castro; Chisum; Coleman; Cook; Craddick; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hernandez Luna; Hochberg; Hopson; Howard, D.; Hunter; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Larson; Lavender; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miller, D.; Morrison; Muñoz; Naishtat; Nash; Oliveira; Otto; Parker; Patrick; Peña; Phillips; Pickett; Pitts; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Scott; Simpson; Smith, T.; Smithee; Solomons; Strama; Taylor, L.; Thompson; Torres; Turner; Veasey; Villarreal; Vo; Walle; White; Woolley; Workman; Zedler; Zerwas.

Nays — Beck; Burkett; Button; Carter; Christian; Creighton; Flynn; Hartnett; Hilderbran; Howard, C.; Huberty; Isaac; Kleinschmidt; Kuempel; Landtroop; Laubenberg; Legler; Miller, S.; Murphy; Paxton; Perry; Price; Schwertner; Sheets; Sheffield; Shelton; Smith, W.; Taylor, V.; Truitt; Weber.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Burnam; Miles.

Absent — Hancock; Hughes; Orr.

HB 2357 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Pickett submitted the following conference committee report on **HB 2357**:

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 2357** 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
Wentworth
Lucio
Watson
Nichols

Pickett
Phillips
Hunter
Lavender

On the part of the senate

On the part of the house

HB 2357, A bill to be entitled An Act relating to motor vehicles; providing penalties.

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

SECTION 1. Section 501.002, Transportation Code, is amended to read as follows:

Sec. 501.002. DEFINITIONS. In this chapter:

(1) "Certificate of title" means a printed record of title ~~[an instrument]~~ issued under Section 501.021.

(2) "Credit card" means a card, plate, or similar device used to make a purchase or to borrow money.

(3) "Dealer" has the meaning assigned by Section 503.001 ~~[means a person who purchases motor vehicles for sale at retail]~~.

(4) "Debit card" means a card that enables the holder to withdraw money or to have the cost of a purchase charged directly to the holder's bank account.

(5) ~~[(3)]~~ "Department" means the Texas Department of Motor Vehicles.

(6) ~~[(4)]~~ "Distributor" has the meaning assigned by Section 2301.002, Occupations Code ~~[means a person engaged in the business of selling to a dealer motor vehicles purchased from a manufacturer]~~.

(7) "Electric bicycle" has the meaning assigned by Section 541.201.

(8) ~~[(5)]~~ "First sale" means:

(A) the bargain, sale, transfer, or delivery of a motor vehicle that has not been previously registered or titled ~~[licensed]~~, with intent to pass an interest in the motor vehicle, other than a lien, regardless of where the bargain, sale, transfer, or delivery occurred; and

(B) the registration or titling ~~[licensing]~~ of that vehicle.

(9) ~~[(6)]~~ "House trailer" means a trailer designed for human habitation. The term does not include manufactured housing.

(10) ~~[(7)]~~ "Importer" means a person, other than a manufacturer, that brings a used motor vehicle into this state for sale in this state.

(11) ~~[(8)]~~ "Importer's certificate" means a certificate for a used motor vehicle brought into this state for sale in this state.

(12) ~~[(9)]~~ "Lien" means:

(A) a lien provided for by the constitution or statute in a motor vehicle;

(B) a security interest, as defined by Section 1.201, Business & Commerce Code, in a motor vehicle, other than an absolute title, created by any written security agreement, as defined by Section 9.102, Business & Commerce Code, including a lease, conditional sales contract, deed of trust, chattel mortgage, trust receipt, or reservation of title; or

(C) a child support lien under Chapter 157, Family Code.

(13) ~~[(10)]~~ "Manufactured housing" has the meaning assigned by Chapter 1201, Occupations Code.

(14) ~~[(11)]~~ "Manufacturer" has the meaning assigned by Section 503.001 ~~[means a person regularly engaged in the business of manufacturing or assembling new motor vehicles]~~.

(15) ~~[(12)]~~ "Manufacturer's permanent vehicle identification number" means the number affixed by the manufacturer to a motor vehicle in a manner and place easily accessible for physical examination and die-stamped or otherwise permanently affixed on one or more removable parts of the vehicle.

(16) ~~[(13)]~~ "Motorcycle" has the meaning assigned by Section 521.001 or 541.201, as applicable ~~[means a motor vehicle, other than a tractor, designed to propel itself with not more than three wheels in contact with the ground]~~.

(17) ~~[(14)]~~ "Motor vehicle" means:

(A) any motor driven or propelled vehicle required to be registered under the laws of this state;

(B) a trailer or semitrailer, other than manufactured housing, that has a gross vehicle weight that exceeds 4,000 pounds;

(C) a travel ~~[house]~~ trailer;

(D) an all-terrain vehicle or a recreational off-highway vehicle, as those terms are defined by Section 502.001, designed by the manufacturer for off-highway use that is not required to be registered under the laws of this state; or

(E) a motorcycle, motor-driven cycle, or moped that is not required to be registered under the laws of this state ~~[, other than a motorcycle, motor driven cycle, or moped designed for and used exclusively on a golf course]~~.

(18) ~~[(15)]~~ "New motor vehicle" has the meaning assigned by Section 2301.002, Occupations Code ~~[means a motor vehicle that has not been the subject of a first sale]~~.

(19) ~~[(16)]~~ "Owner" means ~~[includes]~~ a person, other than a manufacturer, importer, distributor, or dealer, claiming title to or having a right to operate under a lien a motor vehicle that has been subject to a first sale.

(20) "Purchaser" means a person or entity to which a motor vehicle is donated, given, sold, or otherwise transferred.

(21) "Record of title" means an electronic record of motor vehicle ownership in the department's motor vehicle database that is created under Subchapter I.

(22) "Seller" means a person or entity that donates, gives, sells, or otherwise transfers ownership of a motor vehicle.

(23) ~~[(17)]~~ "Semitrailer" means a vehicle that is designed or used with a motor vehicle so that part of the weight of the vehicle and its load rests on or is carried by another vehicle.

(24) ~~[(18)]~~ "Serial number" means a vehicle identification number that is affixed to a part of a motor vehicle and that is:

(A) the manufacturer's permanent vehicle identification number;

(B) a derivative number of the manufacturer's permanent vehicle identification number;

(C) the motor number; or

(D) the vehicle identification number assigned by the department.

(25) ~~[(19)]~~ "Steal" has the meaning assigned by Section 31.01, Penal Code.

(26) ~~[(20)]~~ "Subsequent sale" means:

(A) the bargain, sale, transfer, or delivery of a used motor vehicle ~~[that has been previously registered or licensed in this state or elsewhere]~~, with intent to pass an interest in the vehicle, other than a lien~~[, regardless of where the bargain, sale, transfer, or delivery occurs]~~; and

(B) the registration of the vehicle if registration is required under the laws of this state.

(27) "Title" means a certificate or record of title that is issued under Section 501.021.

(28) ~~[(21)]~~ "Title receipt" means a document ~~[an instrument]~~ issued under Section 501.024.

(29) ~~[(22)]~~ "Trailer" means a vehicle that:

(A) is designed or used to carry a load wholly on the trailer's own structure; and

(B) is drawn or designed to be drawn by a motor vehicle.

(30) "Travel trailer" means a house trailer-type vehicle or a camper trailer:

(A) that is a recreational vehicle defined under 24 C.F.R. Section 3282.8(g); or

(B) that:

(i) is less than eight feet in width or 40 feet in length, exclusive of any hitch installed on the vehicle;

(ii) is designed primarily for use as temporary living quarters in connection with recreational, camping, travel, or seasonal use;

(iii) is not used as a permanent dwelling; and

(iv) is not a utility trailer, enclosed trailer, or other trailer that does not have human habitation as its primary function.

(31) ~~[(23)]~~ "Used motor vehicle" means a motor vehicle that has been the subject of a first sale.

(32) "Vehicle identification number" means:

(A) the manufacturer's permanent vehicle identification number affixed by the manufacturer to the motor vehicle that is easily accessible for physical examination and permanently affixed on one or more removable parts of the vehicle; or

(B) a serial number affixed to a part of a motor vehicle that is:

(i) a derivative number of the manufacturer's permanent vehicle identification number;

(ii) the motor number; or

(iii) a vehicle identification number assigned by the department.

SECTION 2. The heading to Section 501.003, Transportation Code, is amended to read as follows:

Sec. 501.003. PURPOSE [~~CONSTRUCTION~~].

SECTION 3. Section 501.004(a), Transportation Code, is amended to read as follows:

(a) Except as provided by this section, this [~~This~~] chapter applies to all motor vehicles, including a motor vehicle owned by the state or a political subdivision of the state.

SECTION 4. Section 501.131, Transportation Code, is transferred to Subchapter A, Chapter 501, Transportation Code, redesignated as Section 501.0041, Transportation Code, and amended to read as follows:

Sec. 501.0041 [~~501.131~~]. RULES; FORMS. (a) The department may adopt rules to administer this chapter.

(b) The department shall post forms on the Internet and[-

~~(1) in addition to the forms required by this chapter, prescribe forms for a title receipt, manufacturer's certificate, and importer's certificate, and other forms the department determines necessary; and~~

~~(2) provide each county assessor-collector with a sufficient supply of any necessary [the] forms on request.~~

SECTION 5. Section 501.159, Transportation Code, is transferred to Subchapter A, Chapter 501, Transportation Code, redesignated as Section 501.006, Transportation Code, and amended to read as follows:

Sec. 501.006 [~~501.159~~]. ALIAS [~~CERTIFICATE OF~~] TITLE. On receipt of a verified [written] request approved by the executive administrator of a law enforcement agency, the department may issue a [certificate of] title in the form requested by the executive administrator for a vehicle in an alias for the law enforcement agency's use in a covert criminal investigation.

SECTION 6. Section 501.021, Transportation Code, is amended to read as follows:

Sec. 501.021. [~~CERTIFICATE OF~~] TITLE FOR MOTOR VEHICLE. (a) A motor vehicle [~~certificate of~~] title [~~is an instrument~~] issued by the department must include [that includes]:

(1) the name and address of each [~~the~~] purchaser and seller at the first sale or [~~the transferee and transferor at~~] a subsequent sale;

(2) the make of the motor vehicle;

(3) the body type of the vehicle;

(4) the manufacturer's permanent vehicle identification number of the vehicle or the vehicle's motor number if the vehicle was manufactured before the date that stamping a permanent identification number on a motor vehicle was universally adopted;

- (5) the serial number for the vehicle;
- (6) the ~~[number on the vehicle's current Texas license plates, if any;~~
- ~~[(7) a statement:~~
- ~~[(A) that no lien on the vehicle is recorded; or~~
- ~~[(B) of the]~~ name and address of each lienholder and the date of each lien on the vehicle, listed in the chronological order in which the lien was recorded;
- ~~(7) [(8) a space for the signature of the owner of the vehicle;~~
- ~~[(9)]~~ a statement indicating rights of survivorship under Section 501.031;
- ~~(8) [(10)]~~ if the vehicle has an odometer, the odometer reading at the time of ~~[indicated by the]~~ application for the ~~[certificate of]~~ title; and
- ~~(9) [(11)]~~ any other information required by the department.

(b) A printed certificate of title must bear the following statement on its face:

"UNLESS OTHERWISE AUTHORIZED BY LAW, IT IS A VIOLATION OF STATE LAW TO SIGN THE NAME OF ANOTHER PERSON ON A CERTIFICATE OF TITLE OR OTHERWISE GIVE FALSE INFORMATION ON A CERTIFICATE OF TITLE."

(c) A ~~[certificate of]~~ title for a motor vehicle that has been the subject of an ordered repurchase or replacement under Chapter 2301, Occupations Code, must contain on its face a notice sufficient to inform a purchaser that the motor vehicle has been the subject of an ordered repurchase or replacement.

SECTION 7. The heading to Section 501.022, Transportation Code, is amended to read as follows:

Sec. 501.022. MOTOR VEHICLE ~~[CERTIFICATE OF]~~ TITLE REQUIRED.

SECTION 8. Sections 501.022(a), (b), and (c), Transportation Code, are amended to read as follows:

- (a) The owner of a motor vehicle registered in this state:
 - (1) except as provided by Section 501.029, shall apply for title to the vehicle; and
 - (2) may not operate or permit the operation of the vehicle on a public highway until the owner obtains:
 - (A) [a certificate of] title and [for the vehicle or until the owner obtains] registration for the vehicle; or
 - (B) [#] a receipt evidencing title for registration purposes only [to the vehicle is issued] under Section 501.029 [501.029(b)].

(b) A person may not operate a motor vehicle registered in this state on a public highway if the person knows or has reason to believe that the owner has not obtained a ~~[certificate of]~~ title for the vehicle.

(c) The owner of a motor vehicle that is required to be titled and registered in this state must obtain [apply for] a [certificate of] title to [of] the vehicle before selling or disposing of the vehicle.

SECTION 9. The heading to Section 501.023, Transportation Code, is amended to read as follows:

Sec. 501.023. APPLICATION FOR ~~[CERTIFICATE OF]~~ TITLE.

SECTION 10. Section 501.023, Transportation Code, is amended by amending Subsections (a), (b), and (c) and adding Subsection (e) to read as follows:

(a) The owner of a motor vehicle must present identification and apply for a ~~[certificate of]~~ title as prescribed by the department, unless otherwise exempted by law. To obtain a title, the owner must apply:

(1) to the county assessor-collector in the county in which:

(A) the owner is domiciled; or

(B) the motor vehicle is purchased or encumbered; or ~~[and]~~

(2) if the county in which the owner resides has been declared by the governor as a disaster area, to the county assessor-collector in one of the closest unaffected counties to a county that asks for assistance and:

(A) continues to be declared by the governor as a disaster area because the county has been rendered inoperable by the disaster; and

(B) is inoperable for a protracted period of time ~~[on a form prescribed by the department].~~

(b) The assessor-collector shall send the application to the department or enter it into the department's titling system within 72 ~~[not later than 24]~~ hours after receipt of ~~[receiving]~~ the application.

(c) The owner or a lessee of a commercial motor vehicle operating under the International Registration Plan or other agreement described by Section 502.091 ~~[502.054]~~ that is applying for a ~~[certificate of]~~ title for purposes of registration only may apply ~~[must be made]~~ directly to the department. Notwithstanding Section 501.138(a), an applicant for registration under this subsection shall pay ~~[the department]~~ the fee imposed by that section. The ~~[department shall send the]~~ fee shall be distributed to the appropriate county assessor-collector ~~[for distribution]~~ in the manner provided by Section 501.138.

(e) Applications submitted to the department electronically must request the purchaser's choice of county as stated in Subsection (a) as the recipient of all taxes, fees, and other revenue collected as a result of the transaction.

SECTION 11. Sections 501.0234(a), (b), (d), and (e), Transportation Code, are amended to read as follows:

(a) A person who sells at the first or a subsequent sale a motor vehicle and who holds a general distinguishing number issued under Chapter 503 of this code or Chapter 2301, Occupations Code, shall:

(1) except as provided by this section, in the time and manner provided by law, apply, in the name of the purchaser of the vehicle, for the registration of the vehicle, if the vehicle is to be registered, and a ~~[certificate of]~~ title for the vehicle and file with the appropriate designated agent each document necessary to transfer title to or register the vehicle; and at the same time

(2) remit any required motor vehicle sales tax.

(b) This section does not apply to a motor vehicle:

(1) that has been declared a total loss by an insurance company in the settlement or adjustment of a claim;

(2) for which the ~~[certificate of]~~ title has been surrendered in exchange for:

(A) a salvage vehicle title or salvage record of title issued under this chapter;

(B) a nonrepairable vehicle title or nonrepairable vehicle record of title issued under this chapter or Subchapter D, Chapter 683; or

(C) ~~[a certificate of authority issued under Subchapter D, Chapter 683; or~~

~~[(D)]~~ an ownership document issued by another state that is comparable to a document described by Paragraph (A) or (B) ~~[Paragraphs (A)-(C)]~~;

(3) with a gross weight in excess of 11,000 pounds; or

(4) purchased by a commercial fleet buyer who is a full-service deputy under Section 520.008 ~~[502.114]~~ and who utilizes the dealer title application process developed to provide a method to submit title transactions to the county in which the commercial fleet buyer is a full-service deputy.

(d) A seller who applies for the registration or a ~~[certificate of]~~ title for a motor vehicle under Subsection (a)(1) shall apply in the county as directed by the purchaser from the counties set forth in Section 501.023 ~~[of this code]~~.

(e) The department shall develop ~~[promulgate]~~ a form or electronic process ~~in [on]~~ which the purchaser of a motor vehicle shall designate the purchaser's choice as set out in Section 501.023 as the recipient of all taxes, fees, and other revenue collected as a result of the transaction, which the tax assessor-collector is authorized by law to retain. A seller shall make that form or electronic process available to the purchaser of a vehicle at the time of purchase.

SECTION 12. Subchapter B, Chapter 501, Transportation Code, is amended by adding Section 501.0235 to read as follows:

Sec. 501.0235. PERSONAL IDENTIFICATION INFORMATION FOR OBTAINING TITLE. (a) The department may require an applicant for a title to provide current personal identification as determined by department rule.

(b) Any identification number required by the department under this section may be entered in the department's electronic titling system but may not be printed on the title.

SECTION 13. Section 501.024, Transportation Code, is amended to read as follows:

Sec. 501.024. TITLE RECEIPT. (a) A county assessor-collector who receives an application for a ~~[certificate of]~~ title shall issue a title receipt to the applicant containing the information concerning the motor vehicle required for issuance of a title under Section 501.021 or Subchapter I ~~[5]~~ after:

(1) the requirements of this chapter are met, including the payment of the fees required under Section 501.138; and

(2) the ~~[, issue a title receipt on which is noted]~~ information is entered into the department's titling system ~~[concerning the motor vehicle required for the certificate of title under Section 501.021, including a statement of the existence of each lien as disclosed on the application or a statement that no lien is disclosed].~~

(b) If a lien is not disclosed on the application for a ~~[certificate of]~~ title, the assessor-collector shall issue a [mark the] title receipt ~~["original" and deliver it]~~ to the applicant.

(c) If a lien is disclosed on the application for a ~~[certificate of]~~ title, the assessor-collector shall issue a duplicate title receipt to the lienholder ~~[receipts. The assessor collector shall:~~

~~[(1) mark one receipt "original" and mail or deliver it to the first lienholder disclosed on the application; and~~

~~[(2) mark the second receipt "duplicate original" and mail or deliver it to the address of the applicant provided on the application].~~

(d) A title receipt with registration or permit authorizes the operation of the motor vehicle on a public highway in this state for 10 days or until the ~~[certificate of]~~ title is issued, whichever period is shorter.

SECTION 14. Section 501.025, Transportation Code, is amended to read as follows:

Sec. 501.025. ~~[TITLE RECEIPT REQUIRED ON FIRST SALE;]~~ MANUFACTURER'S CERTIFICATE REQUIRED ON FIRST SALE. A county assessor-collector may not issue a title receipt on the first sale of a motor vehicle unless the applicant for the ~~[certificate of]~~ title provides ~~[to the assessor collector]~~ the application for a ~~[certificate of]~~ title and a manufacturer's certificate in [on] a manner [form] prescribed by the department ~~[, that:~~

~~[(1) is assigned to the applicant by the manufacturer, distributor, or dealer shown on the manufacturer's certificate as the last transferee; and~~

~~[(2) shows the transfer of the vehicle from its manufacturer to the purchaser, whether a distributor, dealer, or owner, and each subsequent transfer from distributor to dealer, dealer to dealer, and dealer to applicant].~~

SECTION 15. Section 501.027, Transportation Code, is amended to read as follows:

Sec. 501.027. ISSUANCE OF [CERTIFICATE OF] TITLE. (a) On the day that a county assessor-collector issues a title receipt, a copy of the title receipt and all evidence of title [the assessor collector] shall be submitted [mail] to the department in the period specified in Section 501.023(b) ~~[:~~

~~[(1) a copy of the receipt; and~~

~~[(2) the evidence of title delivered to the assessor collector by the applicant].~~

(b) Not later than the fifth day after the date the department receives an application for a ~~[certificate of]~~ title and the department determines the requirements of this chapter are met:

(1) the [the department shall issue the certificate of] title shall be issued to the first lienholder or to the applicant if [-if] a lien is not disclosed on the application; or

(2) [the department shall notify [send the certificate by first class mail to] the applicant that the department's titling system has established a record of title of the motor vehicle in the applicant's name if a lien is not disclosed [at the

~~address provided on the application~~. If a lien is disclosed on the application, the department shall notify ~~[send]~~ the ~~[certificate by first class mail to the first]~~ lienholder that the lien has been recorded ~~[as disclosed on the application]~~.

SECTION 16. Section 501.0275, Transportation Code, is amended to read as follows:

Sec. 501.0275. ISSUANCE OF TITLE FOR UNREGISTERED VEHICLE. (a) The department shall issue a ~~[certificate of]~~ title for a motor vehicle that complies with the other requirements ~~[for issuance of a certificate of title]~~ under this chapter ~~unless [except that]~~:

(1) the vehicle is not registered for a reason other than a reason provided by Section 501.051(a)(6) ~~[501.051(6)]~~; and

(2) the applicant does not provide evidence of financial responsibility that complies with Section 502.046 ~~[502.153]~~.

(b) On application for a ~~[certificate of]~~ title under this section, the applicant must surrender any license plates issued for the motor vehicle if the plates are not being transferred to another vehicle and any registration insignia for validation of those plates to the department.

SECTION 17. Section 501.0276, Transportation Code, is amended to read as follows:

Sec. 501.0276. DENIAL OF TITLE RECEIPT, ~~[OR CERTIFICATE OF]~~ TITLE, OR RECORD OF TITLE FOR FAILURE TO PROVIDE PROOF OF EMISSIONS TESTING. A county assessor-collector may not issue a title receipt and the department may not issue a certificate of title for a vehicle subject to Section 548.3011 unless proof that the vehicle has passed a vehicle emissions test as required by that section, in a manner ~~[form]~~ authorized by that section, is presented to the county assessor-collector with the application for a [certificate of] title.

SECTION 18. Section 501.029, Transportation Code, is amended to read as follows:

Sec. 501.029. ACCEPTABLE PROOF OF OWNERSHIP ~~[USE OF REGISTRATION RECEIPT OR TITLE RECEIPT TO EVIDENCE TITLE]~~. ~~[(a) A person may use a registration receipt issued under Chapter 502 or a title receipt to evidence title to a motor vehicle and not to transfer an interest in or establish a lien on the vehicle.~~

~~[(b)]~~ The board ~~[department]~~ by rule may provide a list of the documents required for the issuance of a receipt that evidences title to a motor vehicle for registration purposes only. The fee for application for the receipt is the fee applicable to application for a ~~[certificate of]~~ title. The title receipt may not be used to transfer an interest in or establish a lien on the vehicle.

SECTION 19. Sections 501.030(b), (d), (e), (f), and (g), Transportation Code, are amended to read as follows:

(b) Before a motor vehicle that was not manufactured for sale or distribution in the United States may be titled in this state, the applicant must:

(1) provide to the assessor-collector:

(A) a bond release letter, with all attachments, issued by the United States Department of Transportation acknowledging:

(i) receipt of a statement of compliance submitted by the importer of the vehicle; and

(ii) that the statement meets the safety requirements of 19 C.F.R. Section 12.80(e);

(B) a bond release letter, with all attachments, issued by the United States Environmental Protection Agency stating that the vehicle has been tested and shown to conform to federal emission requirements; and

(C) a receipt or certificate issued by the United States Department of the Treasury showing that all gas guzzler taxes due on the vehicle under 26 U.S.C. Section 4064(a) have been paid; or

(2) provide to the assessor-collector proof, satisfactory to the department, ~~[assessor-collector]~~ that the vehicle was not brought into the United States from outside ~~[of]~~ the country.

(d) If a motor vehicle has not been titled or registered in the United States, the application for ~~[certificate of]~~ title must be accompanied by:

(1) a manufacturer's certificate of origin written in English issued by the vehicle manufacturer;

(2) the original documents that constitute valid proof of ownership in the country where the vehicle was originally purchased, with an English translation of the documents verified as to the accuracy of the translation by an affidavit of the translator; or

(3) if the vehicle was imported from a country that cancels the vehicle registration and title for export, the documents assigned to the vehicle after the registration and title were canceled, with an English translation of the documents verified as to the accuracy of the translation by an affidavit of the translator.

(e) Before a motor vehicle that is required to be registered in this state and that is brought into this state by a person other than a manufacturer or importer may be bargained, sold, transferred, or delivered with an intent to pass an interest in the vehicle or encumbered by a lien, the owner must apply for a ~~[certificate of]~~ title in ~~[on]~~ a manner ~~[form]~~ prescribed by the department to the county assessor-collector for the county in which the transaction is to take place. The assessor-collector may not issue a title receipt unless the applicant delivers to the assessor-collector satisfactory evidence ~~[of title]~~ showing that the applicant is the owner of the vehicle and that the vehicle is free of any undisclosed liens.

(f) A county assessor-collector may not be held liable for civil damages arising out of the assessor-collector's failure to reflect on the title receipt a lien or encumbrance on a motor vehicle to which Subsection (e) applies unless the ~~[assessor-collector's]~~ failure constitutes wilful or wanton negligence.

(g) Until an applicant has complied with this section:

(1) a county assessor-collector may not accept an application for ~~[certificate of]~~ title; and

(2) the applicant is not entitled to an appeal as provided by Sections 501.052 and 501.053.

SECTION 20. Section 501.031, Transportation Code, is amended to read as follows:

Sec. 501.031. RIGHTS OF SURVIVORSHIP AGREEMENT. (a) The department shall include on each ~~[certificate of]~~ title an optional [a] rights of survivorship agreement that ~~[form. The form must:]~~:

(1) provides [provide] that if the agreement is between [signed by] two or more eligible persons, the motor vehicle is held jointly by those persons with the interest of a person who dies to transfer [survive] to the surviving person or persons; and

(2) provides [provide blanks] for the acknowledgment by signature, either electronically or by hand, [signatures] of the persons.

(b) If the vehicle is registered in the name of one or more of the persons who acknowledged [signed] the agreement, the ~~[certificate of]~~ title may contain a:

(1) rights of survivorship agreement acknowledged [signed] by all the persons; or

(2) remark if a rights of survivorship agreement is ~~[surrendered with the application for certificate of title or otherwise]~~ on file with the department.

(c) Ownership [Except as provided in Subsection (g), ownership] of the vehicle may be transferred only:

(1) by all the persons acting jointly, if all the persons are alive; and

(2) on the death of one of the persons by the surviving person or persons by transferring ownership of the vehicle ~~[the certificate of title]~~, in the manner otherwise required by law ~~[for transfer of ownership of the vehicle]~~, with a copy of the death certificate of the deceased person ~~[attached to the certificate of title application]~~.

(d) A rights of survivorship agreement under this section may be revoked only if [by surrender of the certificate of title to the department and joint application by] the persons named in [who signed] the agreement file a joint application for a new title in the name of the person or persons designated in the application.

(e) A person is eligible to file [sign] a rights of survivorship agreement under this section if the person:

(1) is married and the spouse of the ~~[signing]~~ person is the only other party to the agreement;

(2) is unmarried and attests to that unmarried status by affidavit; or

(3) is married and provides the department with an affidavit from the ~~[signing]~~ person's spouse that attests that the ~~[signing]~~ person's interest in the vehicle is the ~~[signing]~~ person's separate property.

(f) The department may develop an optional electronic ~~[If the title is being issued in connection with the sale of the vehicle, the seller is not eligible to sign a]~~ rights of survivorship agreement for public use ~~[under this section unless the seller is the child, grandchild, parent, grandparent, brother, or sister of each other person signing the agreement. A family relationship required by this subsection may be a relationship established by adoption.]~~

~~[(g) If an agreement, other than the agreement provided for in Subsection (a), providing for right of survivorship is signed by two or more persons, the department shall issue a new certificate of title to the surviving person or persons]~~

~~upon application accompanied by a copy of the death certificate of the deceased person. The department may develop for public use under this subsection an optional rights of survivorship agreement form].~~

SECTION 21. Section 501.032, Transportation Code, is amended to read as follows:

Sec. 501.032. ASSIGNMENT OF VEHICLE IDENTIFICATION ~~[SERIAL]~~ NUMBER BY DEPARTMENT. (a) On proper application, the department shall assign a vehicle identification ~~[a serial]~~ number to a travel ~~[house]~~ trailer, a trailer or semitrailer that has a gross vehicle weight that exceeds 4,000 pounds, or an item of equipment, including a tractor, farm implement, unit of special mobile equipment, or unit of off-road construction equipment on which:

(1) a vehicle identification ~~[a serial]~~ number was not die-stamped by the manufacturer; or

(2) a vehicle identification ~~[the serial]~~ number die-stamped by the manufacturer has been lost, removed, or obliterated.

(b) The applicant shall die-stamp the assigned vehicle identification ~~[serial]~~ number at the place designated by the department on the travel ~~[house]~~ trailer, trailer, semitrailer, or equipment.

(c) The manufacturer's vehicle identification ~~[serial]~~ number or the vehicle identification ~~[serial]~~ number assigned by the department shall be affixed on the carriage or axle part of the travel ~~[house]~~ trailer, trailer, or semitrailer. The department shall use the number as the major identification of the vehicle in the issuance of a ~~[certificate of]~~ title.

SECTION 22. Sections 501.033(a), (b), and (d), Transportation Code, are amended to read as follows:

(a) A person determined by law enforcement ~~[the department]~~ or a court to be the owner of a motor vehicle, a part of a motor vehicle, or an item of equipment including a tractor, farm implement, unit of special mobile equipment, or unit of off-road construction equipment ~~[that has had the serial number removed, altered, or obliterated]~~ may apply to the department for an assigned vehicle identification number that has been removed, altered, or obliterated.

(b) An application under this section must be in ~~[on]~~ a manner ~~[form]~~ prescribed ~~[and furnished]~~ by the department and accompanied by ~~[the certificate of title for the vehicle or other]~~ valid evidence of ownership as required by the department ~~[if there is no certificate of title]~~.

(d) The assigned vehicle identification number shall be die-stamped or otherwise affixed ~~[to the motor vehicle, part, or item of equipment at the location and]~~ in the manner designated by the department.

SECTION 23. Section 520.011, Transportation Code, is transferred to Subchapter B, Chapter 501, Transportation Code, redesignated as Section 501.0331, Transportation Code, and amended to read as follows:

Sec. 501.0331 ~~[520.011]~~. MOTOR NUMBER REQUIRED FOR ~~[VEHICLE]~~ REGISTRATION ~~[; PENALTY]~~. ~~[(a)]~~ A person may not apply to the county assessor-collector for the registration of a motor vehicle from which the original motor number has been removed, erased, or destroyed until the motor vehicle bears the motor number assigned by the department.

~~[(b) A person commits an offense if the person violates this section. An offense under this subsection is a misdemeanor punishable by a fine of not less than \$50 and not more than \$100.]~~

SECTION 24. Section 520.012, Transportation Code, is transferred to Subchapter B, Chapter 501, Transportation Code, redesignated as Section 501.0332, Transportation Code, and amended to read as follows:

Sec. 501.0332 ~~[520.012]~~. APPLICATION FOR MOTOR NUMBER RECORD~~[; RECORD; PENALTY]~~. (a) To obtain a motor number assigned by the department, the owner of a motor vehicle that has had the original motor number removed, erased, or destroyed must file a sworn application with the department.

(b) The department shall maintain a record of ~~[separate register for recording]~~ each motor number assigned by the department that includes ~~[For each motor number assigned by the department, the record must indicate]:~~

- (1) the motor number assigned by the department;
- (2) the name and address of the owner of the motor vehicle; and
- (3) the make, model, and year of manufacture of the motor vehicle.

~~[(c) A person who fails to comply with this section commits an offense. An offense under this subsection is a misdemeanor punishable by a fine of not less than \$10 and not more than \$100.]~~

SECTION 25. Section 501.034, Transportation Code, is amended to read as follows:

Sec. 501.034. ISSUANCE OF TITLE TO GOVERNMENT AGENCY. The department may issue a ~~[certificate of]~~ title to a government agency if a vehicle or part of a vehicle is:

- (1) forfeited to the government agency;
- (2) delivered by court order under the Code of Criminal Procedure to a government agency for official purposes; or
- (3) sold as abandoned or unclaimed property under the Code of Criminal Procedure.

SECTION 26. Section 501.035, Transportation Code, is amended to read as follows:

Sec. 501.035. ~~[CERTIFICATE OF]~~ TITLE FOR FORMER MILITARY VEHICLE. (a) Notwithstanding any other law, the department shall issue a ~~[certificate of]~~ title for a former military vehicle ~~[that is not registered under the laws of this state]~~ if all ~~[other]~~ requirements for issuance of a ~~[certificate of]~~ title are met.

(b) In this section, "former military vehicle" has the meaning assigned by Section 504.502(i) ~~[502.275(c)]~~.

SECTION 27. Section 501.036, Transportation Code, is amended to read as follows:

Sec. 501.036. ~~[CERTIFICATE OF]~~ TITLE FOR FARM SEMITRAILER.

(a) Notwithstanding any other provision of this chapter, the department may issue a ~~[certificate of]~~ title for a farm semitrailer with a gross weight of more than 4,000 pounds if:

(1) the farm semitrailer is eligible for registration under Section 502.146 ~~[504.504]~~; and

(2) all other requirements for issuance of a ~~[certificate of]~~ title are met.

(b) To obtain a ~~[certificate of]~~ title under this section, the owner of the farm semitrailer must:

(1) apply for the ~~[certificate of]~~ title in the manner required by Section 501.023; and

(2) pay the fee required by Section 501.138.

(c) The department shall adopt rules ~~[and forms]~~ to implement and administer this section.

SECTION 28. Section 501.051, Transportation Code, is amended to read as follows:

Sec. 501.051. GROUNDS FOR REFUSAL TO ISSUE OR FOR REVOCATION OR SUSPENSION OF TITLE ~~[CERTIFICATE]~~. (a) A title may be refused, canceled, suspended, or revoked by the ~~[The]~~ department ~~[shall refuse to issue a certificate of title or shall suspend or revoke a certificate of title]~~ if:

(1) the application ~~[for the certificate]~~ contains a false or fraudulent statement;

(2) the applicant failed to furnish required information requested by the department;

(3) the applicant is not entitled to a ~~[certificate of]~~ title;

(4) the department has reason to believe that the motor vehicle is stolen;

(5) the department has reason to believe that the issuance of a ~~[certificate of]~~ title would defraud the owner or a lienholder of the motor vehicle;

(6) the registration for the motor vehicle is suspended or revoked; or

(7) the required fee has not been paid.

(b) The department may rescind, cancel, or revoke an application for a title if a notarized affidavit is presented containing:

(1) a statement that the vehicle involved was a new motor vehicle in the process of a first sale;

(2) a statement that the dealer, the applicant, and any lienholder have canceled the sale;

(3) a statement that the vehicle:

(A) was never in the possession of the title applicant; or

(B) was in the possession of the title applicant; and

(4) the signatures of the dealer, the applicant, and any lienholder.

(c) A rescission, cancellation, or revocation containing the statement authorized under Subsection (b)(3)(B) does not negate the fact that the vehicle has been the subject of a previous retail sale.

SECTION 29. The heading to Section 501.052, Transportation Code, is amended to read as follows:

Sec. 501.052. HEARING ON REFUSAL TO ISSUE OR REVOCATION OR SUSPENSION OF ~~[CERTIFICATE OF]~~ TITLE; APPEAL.

SECTION 30. Sections 501.052(a), (d), and (e), Transportation Code, are amended to read as follows:

(a) An interested person aggrieved by a refusal, rescission, cancellation, suspension, or revocation under Section 501.051 may apply for a hearing to the county assessor-collector for the county in which the person is a resident ~~[domiciled]~~. On the day an assessor-collector receives the application, the assessor-collector shall notify the department of the date of the hearing.

(d) A determination of the assessor-collector is binding on the applicant and the department as to whether the department correctly refused to issue or correctly rescinded, canceled, revoked, or suspended the ~~[certificate of]~~ title.

(e) An applicant aggrieved by the determination under Subsection (d) may appeal to the county court of the county of the applicant's residence. An applicant must file an appeal not later than the fifth day after the date of the assessor-collector's determination. The county court judge shall try the appeal in the manner of other civil cases. All rights and immunities granted in the trial of a civil case are available to the interested parties. If the department's action is not sustained, the department shall promptly issue a ~~[certificate of]~~ title for the vehicle.

SECTION 31. Section 501.053, Transportation Code, is amended by amending Subsections (a), (b), and (d) and adding Subsection (e) to read as follows:

(a) As an alternative to the procedure provided by Section 501.052, the person may file a bond with the department. On the filing of the bond the person ~~[department]~~ may obtain a [issue the certificate of] title.

(b) The bond must be:

- (1) in the manner ~~[form]~~ prescribed by the department;
- (2) executed by the applicant;
- (3) issued by a person authorized to conduct a surety business in this

state;

(4) in an amount equal to one and one-half times the value of the vehicle as determined by the department, which may set an appraisal system by rule if it is unable to determine that value; and

(5) conditioned to indemnify all prior owners and lienholders and all subsequent purchasers of the vehicle or persons who acquire a security interest in the vehicle, and their successors in interest, against any expense, loss, or damage, including reasonable attorney's fees, occurring because of the issuance of the ~~[certificate of]~~ title for the vehicle or for a defect in or undisclosed security interest on the right, title, or interest of the applicant to the vehicle.

(d) A bond under this section expires on the third anniversary of the date the bond became effective. ~~[The department shall return an expired bond to the person who filed the bond unless the department has been notified of a pending action to recover on the bond.]~~

(e) The board by rule may establish a fee to cover the cost of administering this section.

SECTION 32. Section 501.071, Transportation Code, is amended to read as follows:

Sec. 501.071. SALE OF VEHICLE; TRANSFER OF TITLE. (a) Except as provided in Section 503.039, a motor vehicle may not be the subject of a subsequent sale unless the owner designated on ~~[in]~~ the ~~[certificate of]~~ title submits a transfer of ownership of ~~[transfers]~~ the ~~[certificate of]~~ title ~~[at the time of the sale]~~.

(b) The transfer of the ~~[certificate of]~~ title must be in ~~[on]~~ a manner ~~[form]~~ prescribed by the department that ~~[includes a statement that]:~~

(1) certifies the purchaser ~~[signer]~~ is the owner of the vehicle; and

(2) certifies there are no liens on the vehicle or provides a release of each lien ~~[except as shown]~~ on the vehicle ~~[certificate of title or as fully described in the statement]~~.

SECTION 33. Section 520.022, Transportation Code, is transferred to Subchapter D, Chapter 501, Transportation Code, redesignated as Section 501.0721, Transportation Code, and amended to read as follows:

Sec. 501.0721 ~~[520.022]~~. DELIVERY OF RECEIPT AND TITLE TO PURCHASER OF USED MOTOR VEHICLE ~~[TRANSFEREE; PENALTY]~~.

~~[(a)]~~ A person, whether acting for that person or another, who sells, trades, or otherwise transfers a used motor vehicle shall deliver to the purchaser ~~[transferee]~~ at the time of delivery of the vehicle ~~[-~~

~~[(1) the license receipt issued by the department for registration of the vehicle, if the vehicle was required to be registered at the time of the delivery; and~~

~~[(2)]~~ a properly assigned ~~[certificate of]~~ title or other evidence of title as required under this chapter ~~[Chapter 501]~~.

~~[(b) A person commits an offense if the person violates this section. An offense under this subsection is a misdemeanor punishable by a fine not to exceed \$200.]~~

SECTION 34. Sections 501.074(a), (b), and (c), Transportation Code, are amended to read as follows:

(a) The department shall issue a new ~~[certificate of]~~ title for a motor vehicle registered in this state for which the ownership is transferred by operation of law ~~[-, including by inheritance, devise or bequest, bankruptcy, receivership, judicial sale,]~~ or other involuntary divestiture of ownership after receiving:

(1) a certified copy of an ~~[the]~~ order appointing a temporary administrator or of the probate proceedings;

(2) letters testamentary or letters of administration;

(3) if administration of an estate is not necessary, an affidavit showing that administration is not necessary, identifying all heirs, and including a statement by the heirs of the name in which the certificate shall be issued;

(4) a court order; or

(5) the bill of sale from an officer making a judicial sale.

(b) If a lien is foreclosed by nonjudicial means, the department may issue a new ~~[certificate of]~~ title in the name of the purchaser at the foreclosure sale on receiving the affidavit of the lienholder of the fact of the nonjudicial foreclosure.

(c) If a constitutional or statutory lien is foreclosed, the department may issue a new ~~[certificate of]~~ title in the name of the purchaser at the foreclosure sale on receiving:

(1) the affidavit of the lienholder of the fact of the creation of the lien and of the divestiture of title according to law; and

(2) proof of notice as required by Sections 70.004 and 70.006, Property Code.

SECTION 35. Section 501.076(c), Transportation Code, is amended to read as follows:

(c) The person named as the agent in the limited power of attorney must meet the following requirements:

(1) the person may be a person who has been appointed by the ~~commissioners~~ ~~[commissioner's]~~ court as a deputy to perform vehicle registration functions under Section 520.0091 ~~[502.112]~~, a ~~licensed~~ ~~[license]~~ vehicle auction company holding a wholesale general distinguishing number under Section 503.022, a person who has a permit similar to one of the foregoing that is issued by the state in which the owner is located, or another person authorized by law to execute title documents in the state in which the owner executes the documents; and

(2) the person may not be the transferee or an employee of the transferee. The person may not act as the agent of both the transferor and transferee in the transaction. For the purposes of this section, a person is not the agent of both the transferor and transferee in a transaction unless the person has the authority to sign the documents pertaining to the transfer of title on behalf of both the transferor and the transferee.

SECTION 36. Section 501.091, Transportation Code, is amended by amending Subdivisions (2), (3), (6), (7), (8), (9), (10), (12), (14), (15), (16), (17), and (18) and adding Subdivisions (10-a) and (16-a) to read as follows:

(2) "Casual sale" means the sale by a salvage vehicle dealer or an insurance company of five or fewer ~~[not more than five]~~ nonrepairable motor vehicles or salvage motor vehicles to the same person during a calendar year, but ~~[-The term]~~ does not include:

(A) a sale at auction to a salvage vehicle dealer; ~~[or]~~

(B) a sale to an insurance company, out-of-state buyer, or governmental entity; or

(C) the sale of an export-only motor vehicle to a person who is not a resident of the United States.

(3) "Damage" means sudden damage to a motor vehicle caused by the motor vehicle being wrecked, burned, flooded, or stripped of major component parts. The term does not include:

(A) gradual damage from any cause;

(B) ~~[;]~~ sudden damage caused by hail;

(C) ~~[-or]~~ any damage caused only to the exterior paint of the motor vehicle; or

(D) theft, unless the motor vehicle was damaged during the theft and before recovery.

(6) "Major component part" means one of the following parts of a motor vehicle:

- (A) the engine;
- (B) the transmission;
- (C) the frame;
- (D) a fender;
- (E) the hood;
- (F) a door allowing entrance to or egress from the passenger compartment of the motor vehicle;
- (G) a bumper;
- (H) a quarter panel;
- (I) a deck lid, tailgate, or hatchback;
- (J) the cargo box of a vehicle with a gross vehicle weight of 10,000 pounds or less [one ton or smaller truck], including a pickup truck;
- (K) the cab of a truck;
- (L) the body of a passenger motor vehicle;
- (M) the roof or floor pan of a passenger motor vehicle, if separate from the body of the motor vehicle.

(7) "Metal recycler" means a person who:

(A) is [~~predominately~~] engaged in the business of obtaining, converting, or selling ferrous or nonferrous metal [~~that has served its original economic purpose to convert the metal, or sell the metal~~] for conversion[;] into raw material products consisting of prepared grades and having an existing or potential economic value;

(B) has a facility to convert ferrous or nonferrous metal into raw material products [~~consisting of prepared grades and having an existing or potential economic value,~~] by method other than the exclusive use of hand tools, including the processing, sorting, cutting, classifying, cleaning, baling, wrapping, shredding, shearing, or changing the physical form or chemical content of the metal; and

(C) sells or purchases the ferrous or nonferrous metal solely for use as raw material in the production of new products.

(8) "Motor vehicle" has the meaning assigned by Section 501.002 [~~501.002(14)~~].

(9) "Nonrepairable motor vehicle" means a motor vehicle that:

(A) is damaged, wrecked, or burned to the extent that the only residual value of the vehicle is as a source of parts or scrap metal; or

(B) comes into this state under a comparable [~~title or other~~] ownership document that indicates that the vehicle is nonrepairable [~~, junked, or for parts or dismantling only~~].

(10) "Nonrepairable vehicle title" means a printed document issued by the department that evidences ownership of a nonrepairable motor vehicle.

(10-a) "Nonrepairable record of title" means an electronic record of ownership of a nonrepairable motor vehicle.

(12) "Out-of-state ownership document" means a negotiable document issued by another state or jurisdiction that the department considers sufficient to prove ownership of a nonrepairable motor vehicle or salvage motor vehicle and to support the issuance of a comparable Texas ~~[certificate of]~~ title for the motor vehicle. The term does not include any [a] title or certificate issued by the department ~~[-, including a regular certificate of title, a nonrepairable vehicle title, a salvage vehicle title, a Texas Salvage Certificate, Certificate of Authority to Demolish a Motor Vehicle, or another ownership document issued by the department].~~

(14) "Rebuilder" means a person who acquires and repairs, rebuilds, or reconstructs for operation on a public highway, ~~[three or]~~ more than five salvage motor vehicles in a calendar year.

(15) "Salvage motor vehicle" [÷

~~[(A)]~~ means a motor vehicle that:

(A) [(A)] has damage to or is missing a major component part to the extent that the cost of repairs, including parts and labor other than the cost of materials and labor for repainting the motor vehicle and excluding sales tax on the total cost of repairs, exceeds the actual cash value of the motor vehicle immediately before the damage; or

(B) [(ii) is damaged and that] comes into this state under an out-of-state salvage motor vehicle ~~[certificate of]~~ title or similar out-of-state ownership document ~~[that states on its face "accident damage," "flood damage," "inoperable," "rebuildable," "salvageable," or similar notation; and~~

~~[(B) does not include an out of state motor vehicle with a "rebuilt," "prior salvage," "salvaged," or similar notation, a nonrepairable motor vehicle, or a motor vehicle for which an insurance company has paid a claim for:~~

~~[(i) the cost of repairing hail damage; or~~

~~[(ii) theft, unless the motor vehicle was damaged during the theft and before recovery to the extent described by Paragraph (A)(i)].~~

(16) "Salvage vehicle title" means a printed document issued by the department that evidences ownership of a salvage motor vehicle.

(16-a) "Salvage record of title" means an electronic record of ownership of a salvage motor vehicle.

(17) "Salvage vehicle dealer" means a person engaged in this state in the business of acquiring, selling, repairing, rebuilding, reconstructing, or otherwise dealing in nonrepairable motor vehicles, salvage motor vehicles, or, if incidental to a salvage motor vehicle dealer's primary business, used automotive parts regardless of whether the person holds a license issued by the department to engage in that business. The term does not include an unlicensed [a] person who:

(A) casually repairs, rebuilds, or reconstructs not more [fewer] than five nonrepairable motor vehicles or salvage motor vehicles in the same calendar year [or, except as provided by Paragraph (C), a used automotive parts recycler. The term includes a person engaged in the business of:

[(A) a salvage vehicle dealer, regardless of whether the person holds a license issued by the department to engage in that business];

(B) ~~buys not more than five [dealing in]~~ nonrepairable motor vehicles or salvage motor vehicles in the same calendar year; or

(C) is a licensed used automotive parts recycler if the sale of repaired, rebuilt, or reconstructed nonrepairable motor vehicles or salvage motor vehicles is more than an incidental part of the used automotive parts recycler's business.

(18) "Self-insured motor vehicle" means a motor vehicle for which the ~~[evidence of ownership is a manufacturer's certificate of origin or for which the department or another state or jurisdiction has issued a regular certificate of title, is self-insured by the]~~ owner ~~[, and is owned by an individual, a business,]~~ or a governmental entity assumes full financial responsibility for motor vehicle loss claims~~[,]~~ without regard to the number of motor vehicles they own or operate. The term does not include a motor vehicle that is insured by an insurance company.

SECTION 37. Section 501.098, Transportation Code, is redesignated as Section 501.09111, Transportation Code, and amended to read as follows:

Sec. 501.09111 ~~[501.098]~~. RIGHTS AND LIMITATIONS OF [HOLDER OF] NONREPAIRABLE VEHICLE TITLE, NONREPAIRABLE RECORD OF TITLE, [OR] SALVAGE VEHICLE TITLE, OR SALVAGE RECORD OF TITLE. (a) A person who owns ~~[holds]~~ a nonrepairable ~~[vehicle title for a]~~ motor vehicle:

(1) is entitled to possess, transport, dismantle, scrap, destroy, record a lien as provided for in Section 501.097(a)(3)(A), and sell, transfer, or release ownership of the motor vehicle or a used part from the motor vehicle; and

(2) may not:

(A) operate or permit the operation of the motor vehicle on a public highway, in addition to any other requirement of law;

(B) repair, rebuild, or reconstruct the motor vehicle; or

(C) register the motor vehicle.

(b) A person who holds a nonrepairable certificate of title issued prior to September 1, 2003,~~;~~

~~[(1)]~~ is entitled to the same rights listed in Subsection (a) and may ~~;~~

~~[(A)]~~ repair, rebuild, or reconstruct the motor vehicle ~~;~~

~~[(B)]~~ possess, transport, dismantle, scrap, or destroy the motor vehicle; and

~~[(C)]~~ sell, transfer, or release ownership of the vehicle or a used part from the motor vehicle; and

~~[(2)]~~ may not:

~~[(A)]~~ operate or permit the operation of the motor vehicle on a public highway, in addition to any other requirement of law; or

~~[(B)]~~ register the motor vehicle].

(c) A person who owns ~~[holds]~~ a salvage ~~[vehicle title for a]~~ motor vehicle:

(1) is entitled to possess, transport, dismantle, scrap, destroy, repair, rebuild, reconstruct, record a lien on, and sell, transfer, or release ownership of the motor vehicle or a used part from the motor vehicle; and

(2) may not operate, register, or permit the operation of the motor vehicle on a public highway, in addition to any other requirement of law.

SECTION 38. Section 501.103, Transportation Code, is redesignated as Section 501.09112, Transportation Code, and amended to read as follows:

Sec. 501.09112 ~~[501.103]. APPEARANCE [COLOR] OF NONREPAIRABLE VEHICLE TITLE OR SALVAGE VEHICLE TITLE.~~ (a) The department's printed ~~[department shall print a]~~ nonrepairable vehicle title must^[+]

~~[(1) in a color that distinguishes it from a regular certificate of title or salvage vehicle title; and~~

~~[(2) so that it]~~ clearly indicate ~~[shows]~~ that it is the negotiable ownership document for a nonrepairable motor vehicle.

(b) A nonrepairable vehicle title must clearly indicate ~~[state on its face]~~ that the motor vehicle:

(1) may not be:

(A) issued a regular ~~[certificate of]~~ title;

(B) registered in this state; or

(C) repaired, rebuilt, or reconstructed; and

(2) may be used only as a source for used parts or scrap metal.

(c) The department's printed ~~[department shall print a]~~ salvage vehicle title must^[+]

~~[(A) in a color that distinguishes it from a regular certificate of title or nonrepairable vehicle title; and~~

~~[(B) so that each document]~~ clearly show ~~[shows]~~ that it is the ownership document for a salvage motor vehicle.

(d) A salvage vehicle title or a salvage record of title for a vehicle that is a salvage motor vehicle because of damage caused exclusively by flood must bear a notation ~~[on its face]~~ that the department considers appropriate. If the title for a motor vehicle reflects the notation required by this subsection, the owner may sell, transfer, or release the motor vehicle only as provided by this subchapter.

(e) An electronic application for a nonrepairable vehicle title, nonrepairable record of title, salvage vehicle title, or salvage record of title must clearly advise the applicant of the same provisions required on a printed title.

(f) A nonrepairable vehicle title, nonrepairable record of title, salvage vehicle title, or salvage record of title in the department's electronic database must include appropriate remarks so that the vehicle record clearly shows the status of the vehicle [(e) The department may provide a stamp to a person who is a licensed salvage vehicle dealer under Chapter 2302, Occupations Code, to mark the face of a title under this subchapter. The department shall provide the stamp to the person for a fee in the amount determined by the department to be necessary for the department to recover the cost of providing the stamp].

SECTION 39. Section 501.101, Transportation Code, is redesignated as Section 501.09113, Transportation Code, and amended to read as follows:

Sec. 501.09113 ~~[501.101]. OUT-OF-STATE SALVAGE OR REBUILT SALVAGE VEHICLE [ISSUANCE OF TITLE TO MOTOR VEHICLE BROUGHT INTO STATE].~~ (a) This section applies only to a motor vehicle

brought into this state from another state or jurisdiction that has on any ~~[certificate of]~~ title or comparable out-of-state ownership document issued by the other state or jurisdiction:

(1) a "rebuilt," "salvage," or similar notation; or

(2) a "nonrepairable," "dismantle only," "parts only," "junked," "scrapped," or similar notation.

(b) On receipt of a complete application from the owner of the motor vehicle, the department shall issue the applicant the appropriate ~~[certificate of]~~ title for the motor vehicle.

~~[(e) A certificate of title issued under this section must show on its face:~~

~~[(1) the date of issuance;~~

~~[(2) the name and address of the owner;~~

~~[(3) any registration number assigned to the motor vehicle; and~~

~~[(4) a description of the motor vehicle or other notation the department considers necessary or appropriate.]~~

SECTION 40. The heading to Section 501.095, Transportation Code, is amended to read as follows:

Sec. 501.095. SALE, TRANSFER, OR RELEASE ~~[OF NONREPAIRABLE MOTOR VEHICLE OR SALVAGE MOTOR VEHICLE]~~.

SECTION 41. Sections 501.095(a) and (b), Transportation Code, are amended to read as follows:

(a) If the department has not issued a nonrepairable vehicle title, nonrepairable record of title, ~~[or]~~ salvage vehicle title, or salvage record of title for the motor vehicle and a comparable ~~[an]~~ out-of-state ownership document for the motor vehicle has not been issued by another state or jurisdiction, a business or governmental entity described by Subdivisions (1)-(3) may sell, transfer, or release a nonrepairable motor vehicle or salvage motor vehicle only to a person who is:

(1) a licensed salvage vehicle dealer, a used automotive parts recycler under Chapter 2309, Occupations Code, or a metal recycler under Chapter 2302, Occupations Code;

(2) an insurance company that has paid a claim on the nonrepairable or salvage motor vehicle; or

(3) a governmental entity~~[-or~~

~~[(4) an out of state buyer].~~

(b) An owner ~~[A person]~~, other than a salvage vehicle dealer, a used automotive parts recycler, or an insurance company licensed to do business in this state, who acquired ownership of a nonrepairable or salvage motor vehicle that has not been issued a nonrepairable vehicle title, nonrepairable record of title, salvage vehicle title, salvage record of title, or a comparable ownership document issued by another state or jurisdiction shall, before selling the motor vehicle, surrender the properly assigned ~~[certificate of]~~ title for the motor vehicle to the department and apply to the department for the appropriate ownership document~~[-~~

~~[(1) a nonrepairable vehicle title if the vehicle is a nonrepairable motor vehicle; or~~

~~[(2) a salvage vehicle title if the vehicle is a salvage motor vehicle].~~

SECTION 42. Section 501.097, Transportation Code, is amended by amending Subsections (a) and (c) and adding Subsection (c-1) to read as follows:

(a) An application for a nonrepairable vehicle title, nonrepairable record of title, ~~or~~ salvage vehicle title, or salvage record of title must:

(1) be made in ~~on~~ a manner ~~[form]~~ prescribed by the department and accompanied by a \$8 application fee;

(2) include, in addition to any other information required by the department:

(A) the name and current address of the owner; and

(B) a description of the motor vehicle, including the make, style of body, model year, and vehicle identification number~~[-and~~

~~[(C) a statement describing whether the motor vehicle:~~

~~[(i) was the subject of a total loss claim paid by an insurance company under Section 501.092 or 501.093;~~

~~[(ii) is a self-insured motor vehicle under Section 501.094;~~

~~[(iii) is an export-only motor vehicle under Section 501.099; or~~

~~[(iv) was sold, transferred, or released to the owner or former owner of the motor vehicle or a buyer at a casual sale]; and~~

(3) include the name and address of:

(A) any currently recorded lienholder, if the motor vehicle is a nonrepairable motor vehicle; or

(B) any currently recorded lienholder or a new lienholder, if the motor vehicle is a salvage motor vehicle.

(c) A printed nonrepairable vehicle title must state on its face that the motor vehicle:

(1) may not:

(A) be repaired, rebuilt, or reconstructed;

(B) be issued a ~~[regular certificate of]~~ title or registered in this state;

(C) be operated on a public highway, in addition to any other requirement of law; and

(2) may only be used as a source for used parts or scrap metal.

(c-1) The department's titling system must include a remark that clearly identifies the vehicle as a salvage or nonrepairable motor vehicle.

SECTION 43. Sections 501.100(a), (b), (c), and (f), Transportation Code, are amended to read as follows:

(a) A vehicle for which a nonrepairable certificate of title issued prior to September 1, 2003, or for which a salvage vehicle title or salvage record of title has been issued may obtain ~~[be issued]~~ a ~~[regular certificate of]~~ title after the motor vehicle has been repaired, rebuilt, or reconstructed ~~[by a person described by Section 501.104(a)]~~ and, in addition to any other requirement of law, only if the application ~~[is accompanied by a separate form that]~~:

(1) describes each major component part used to repair the motor vehicle;

(2) states the name of each person from whom the parts used in assembling the vehicle were obtained; and

(3) ~~(2)~~ shows the identification number required by federal law to be affixed to or inscribed on the part.

(b) On receipt of a complete application under this section accompanied by the ~~[\$13]~~ fee for the ~~[certificate of]~~ title, the department shall issue the applicant a ~~[regular certificate of]~~ title ~~[for the motor vehicle]~~.

(c) A ~~[regular certificate of]~~ title issued under this section must ~~[-~~

~~[(4)]~~ describe or disclose the motor vehicle's former condition in a manner reasonably understandable to a potential purchaser of the motor vehicle ~~[-~~ and

~~[(2)]~~ bear on its face the words "REBUILT SALVAGE" in capital letters that:

~~[(A)]~~ are red;

~~[(B)]~~ are centered on and occupy at least 15 percent of the face of the certificate of title; and

~~[(C)]~~ do not prevent any other words on the title from being read or copied].

(f) The department may not issue a regular ~~[certificate of]~~ title for a motor vehicle based on a:

(1) nonrepairable vehicle title or comparable out-of-state ownership document;

(2) receipt issued under Section 501.1003(b) ~~[501.096(b)]~~; or

(3) certificate of authority.

SECTION 44. Section 501.092, Transportation Code, is redesignated as Section 501.1001, Transportation Code, and amended to read as follows:

Sec. 501.1001 ~~[501.092]~~. ~~[INSURANCE COMPANY TO SURRENDER CERTIFICATES OF TITLE TO CERTAIN]~~ SALVAGE MOTOR VEHICLES OR NONREPAIRABLE MOTOR VEHICLES FOR INSURANCE COMPANIES OR SELF-INSURED PERSONS. (a) An insurance company that is licensed to conduct business in this state and that acquires, through payment of a claim, ownership or possession of a salvage motor vehicle or nonrepairable motor vehicle covered by a ~~[certificate of]~~ title issued by this state or a manufacturer's certificate of origin shall surrender a properly assigned title or manufacturer's certificate of origin to the department, in [on] a manner [form] prescribed by the department, except that not earlier than the 31st ~~[46th]~~ day after the date of payment of the claim the insurance company may surrender a ~~[certificate of]~~ title, in [on] a manner [form] prescribed by the department, and receive a salvage vehicle ~~[certificate of]~~ title or a nonrepairable vehicle ~~[certificate of]~~ title without obtaining a properly assigned ~~[certificate of]~~ title if the insurance company:

(1) has obtained the release of all liens on the motor vehicle;

(2) is unable to locate one or more owners of the motor vehicle; and

(3) has provided notice to the last known address in the department's records to each owner that has not been located:

(A) by registered or certified mail, return receipt requested; or

(B) if a notice sent under Paragraph (A) is returned unclaimed, by publication in a newspaper of general circulation in the area where the unclaimed mail notice was sent.

(b) For a salvage motor vehicle, the insurance company shall apply for a salvage vehicle title or salvage record of title. For a nonrepairable motor vehicle, the insurance company shall apply for a nonrepairable vehicle title or nonrepairable record of title.

~~(c) [An insurance company may not sell a motor vehicle to which this section applies unless the department has issued a salvage vehicle title or a nonrepairable vehicle title for the motor vehicle or a comparable ownership document has been issued by another state or jurisdiction for the motor vehicle.]~~

~~[(d) An insurance company may sell a motor vehicle to which this section applies, or assign a salvage vehicle title or a nonrepairable vehicle title for the motor vehicle, only to a salvage vehicle dealer, an out-of-state buyer, a buyer in a casual sale at auction, a metal recycler, or a used automotive parts recycler. If the motor vehicle is not a salvage motor vehicle or a nonrepairable motor vehicle, the insurance company is not required to surrender the regular certificate of title for the vehicle or to be issued a salvage vehicle title or a nonrepairable vehicle title for the motor vehicle.]~~

~~[(e)]~~ An insurance company or other person who acquires ownership of a motor vehicle other than a nonrepairable or salvage motor vehicle may voluntarily and on proper application obtain a salvage vehicle title, salvage record of title, ~~[or a]~~ nonrepairable vehicle title, or nonrepairable record of title for the vehicle.

(d) This subsection applies only to a motor vehicle in this state that is a self-insured motor vehicle and that is damaged to the extent it becomes a nonrepairable or salvage motor vehicle. The owner of a motor vehicle to which this subsection applies shall submit to the department before the 31st business day after the date of the damage, in a manner prescribed by the department, a statement that the motor vehicle was self-insured and damaged. When the owner submits a report, the owner shall surrender the ownership document and apply for a nonrepairable vehicle title, nonrepairable record of title, salvage vehicle title, or salvage record of title.

SECTION 45. Section 501.093, Transportation Code, is redesignated as Section 501.1002, Transportation Code, and amended to read as follows:

Sec. 501.1002 ~~[501.093]~~. OWNER-RETAINED ~~[INSURANCE COMPANY REPORT ON CERTAIN]~~ VEHICLES. (a) If an insurance company pays a claim on a nonrepairable motor vehicle or salvage motor vehicle and the insurance company does not acquire ownership of the motor vehicle, the insurance company shall:

(1) apply on behalf of the owner for a nonrepairable vehicle title, nonrepairable record of title, salvage vehicle title, or salvage record of title; or

(2) notify the owner of the information contained in:

(A) Subsection (b); or

(B) Section 501.09111; and

(3) submit to the department, before the 31st day after the date of the payment of the claim, in a manner ~~[on the form]~~ prescribed by the department, a report stating that the insurance company:

(A) ~~[(1)]~~ has paid a claim on the motor vehicle; and

(B) ~~[(2)]~~ has not acquired ownership of the motor vehicle.

(b) The owner of a motor vehicle to which this section applies may not operate or permit operation of the motor vehicle on a public highway or transfer ownership of the motor vehicle by sale or otherwise unless the department has issued a salvage vehicle title, salvage record of title, ~~[or a]~~ nonrepairable vehicle title, or nonrepairable record of title for the motor vehicle or a comparable ownership document has been issued by another state or jurisdiction for the motor vehicle.

~~[(e) Subsection (b) does not apply if:~~

~~[(1) the department has issued a nonrepairable vehicle title or salvage vehicle title for the motor vehicle; or~~

~~[(2) another state or jurisdiction has issued a comparable out of state ownership document for the motor vehicle.]~~

SECTION 46. Section 501.096, Transportation Code, is redesignated as Section 501.1003, Transportation Code, and amended to read as follows:

Sec. 501.1003 ~~[501.096]~~. ~~[NONREPAIRABLE MOTOR VEHICLE OR]~~ SALVAGE DEALER RESPONSIBILITIES ~~[MOTOR VEHICLE DISMANTLED, SCRAPPED, OR DESTROYED]~~. (a) If a salvage vehicle dealer acquires ownership of a nonrepairable motor vehicle or salvage motor vehicle for the purpose of dismantling, scrapping, or destroying the motor vehicle, the dealer shall, before the 31st day after the date the dealer acquires the motor vehicle, submit to the department a report stating that the motor vehicle will be dismantled, scrapped, or destroyed. The dealer shall:

(1) make the report in a manner ~~[on a form]~~ prescribed by the department; and

(2) submit with the report a properly assigned manufacturer's certificate of origin, regular certificate of title, nonrepairable vehicle title, salvage vehicle title, or comparable out-of-state ownership document for the motor vehicle.

(b) After receiving the report and title or document, the department shall issue the salvage vehicle dealer a receipt for the manufacturer's certificate of origin, regular certificate of title, nonrepairable vehicle title, salvage vehicle title, or comparable out-of-state ownership document.

(c) The department shall adopt rules to notify the salvage [vehicle] dealer if the vehicle was not issued a printed title, but has a record of title in the department's titling system [shall:

~~[(1) keep on the business premises of the dealer, until the third anniversary of the date the report on the motor vehicle is submitted to the department, a record of the vehicle, its ownership, and its condition as dismantled, scrapped, or destroyed; and~~

~~[(2) present to the department, on the form prescribed by the department, evidence that the motor vehicle was dismantled, scrapped, or destroyed before the 61st day after the date the dealer completed the dismantling, scrapping, or destruction of the motor vehicle].~~

SECTION 47. Section 501.104, Transportation Code, is amended to read as follows:

Sec. 501.104. REBUILDER TO POSSESS TITLE OR OTHER DOCUMENTATION. (a) This section applies ~~[only]~~ to [:

~~(1) a rebuilder licensed as a salvage vehicle dealer;~~

~~(2)] a person engaged in repairing, rebuilding, or reconstructing more than five motor vehicles [the business of a rebuilder], regardless of whether the person is licensed to engage in that business [;~~ or

~~(3) a person engaged in the casual repair, rebuilding, or reconstruction of fewer than three motor vehicles in the same 12-month period].~~

(b) A person described by Subsection (a) must possess:

(1) an acceptable ~~[a regular certificate of title, nonrepairable vehicle title, salvage vehicle title, or comparable out-of-state]~~ ownership document or proof of ownership for any motor vehicle that is:

(A) owned by the person;

(B) in the person's inventory; and

(C) being offered for resale; or

(2) a contract entered into with the owner, a work order, or another document that shows the authority for the person to possess any motor vehicle that is:

(A) owned by another person;

(B) on the person's business or casual premises; and

(C) being repaired, rebuilt, or reconstructed for the other person.

SECTION 48. Section 501.105, Transportation Code, is redesignated as Section 501.108, Transportation Code, and amended to read as follows:

Sec. 501.108 ~~[501.105]~~. RECORD RETENTION ~~[OF RECORDS RELATING TO CERTAIN CASUAL SALES]~~. (a) Each licensed salvage vehicle dealer, used automotive parts recycler, or insurance company that sells a nonrepairable motor vehicle or a salvage motor vehicle at a casual sale shall keep on the business premises of the dealer or the insurance company a list of all casual sales made during the preceding 36-month period that contains:

(1) the date of the sale;

(2) the name of the purchaser;

(3) the name of the jurisdiction that issued the identification document provided by the purchaser, as shown on the document; and

(4) the vehicle identification number.

(b) A salvage vehicle dealer or used automotive parts recycler shall keep on the business premises of the dealer or recycler, until the third anniversary of the date the report on the motor vehicle is submitted to the department, a record of the vehicle, its ownership, and its condition as dismantled, scrapped, or destroyed as required by Section 501.1003.

SECTION 49. Section 501.102, Transportation Code, is redesignated as Section 501.109, Transportation Code, and amended to read as follows:

Sec. 501.109 [~~501.102~~]. OFFENSES. (a) A person commits an offense if the person:

(1) applies to the department for a [~~regular certificate of~~] title for a motor vehicle; and

(2) knows or reasonably should know that:

(A) the vehicle is a nonrepairable motor vehicle that has been repaired, rebuilt, or reconstructed;

(B) the vehicle identification number assigned to the motor vehicle belongs to a nonrepairable motor vehicle that has been repaired, rebuilt, or reconstructed;

(C) the title issued to the motor vehicle belongs to a nonrepairable motor vehicle that has been repaired, rebuilt, or reconstructed;

(D) the vehicle identification number assigned to the motor vehicle belongs to an export-only motor vehicle;

(E) the motor vehicle is an export-only motor vehicle; or

(F) the motor vehicle is a nonrepairable motor vehicle or salvage motor vehicle for which a nonrepairable vehicle title, salvage vehicle title, or comparable ownership document issued by another state or jurisdiction has not been issued.

(b) A person commits an offense if the person knowingly sells, transfers, or releases a salvage motor vehicle in violation of this subchapter.

(c) A person commits an offense if the person knowingly fails or refuses to surrender a regular certificate of title after the person:

(1) receives a notice from an insurance company that the motor vehicle is a nonrepairable or salvage motor vehicle; or

(2) knows the vehicle has become a nonrepairable motor vehicle or salvage motor vehicle under Section 501.1001 [~~501.094~~].

(d) Except as provided by Subsection (e), an offense under this section is a Class C misdemeanor.

(e) If it is shown on the trial of an offense under this section that the defendant has been previously convicted of:

(1) one offense under this section, the offense is a Class B misdemeanor; or

(2) two or more offenses under this section, the offense is a state jail felony.

SECTION 50. Section 501.106, Transportation Code, is redesignated as Section 501.110, Transportation Code, and amended to read as follows:

Sec. 501.110 [~~501.106~~]. ENFORCEMENT OF SUBCHAPTER. (a) This subchapter shall be enforced by the department and any other governmental or law enforcement entity, including the Department of Public Safety, and the personnel of the entity as provided by this subchapter.

(b) The department, an agent, officer, or employee of the department, or another person enforcing this subchapter is not liable to a person damaged or injured by an act or omission relating to the issuance or revocation of a [regular certificate of] title, nonrepairable vehicle title, nonrepairable record of title, [or] salvage vehicle title, or salvage record of title under this subchapter.

SECTION 51. Section 501.111(a), Transportation Code, is amended to read as follows:

(a) Except as provided by Subsection (b), a person may perfect a security interest in a motor vehicle that is the subject of a first or subsequent sale only by recording the security interest on the [certificate of] title as provided by this chapter.

SECTION 52. Section 501.113, Transportation Code, is amended to read as follows:

Sec. 501.113. RECORDATION OF SECURITY INTEREST. (a) Recordation of a lien under this chapter is considered to occur when:

- (1) the department's titling system is updated; or
- (2) the county assessor-collector [÷
~~[(1) is presented with an application for a certificate of title that discloses the lien with tender of the filing fee; or~~
[(2)] accepts the application of title that discloses the lien with the filing fee.

(b) For purposes of Chapter 9, Business & Commerce Code, the time of recording a lien under this chapter is considered to be the time of filing the security interest, and on such recordation, the recorded lienholder and assignees under Section 501.114 obtain priority over the rights of a lien creditor, as defined by Section 9.102, Business & Commerce Code, for so long as the lien is recorded on the [certificate of] title.

SECTION 53. Sections 501.114(b), (d), (e), (f), and (g), Transportation Code, are amended to read as follows:

(b) An assignee or assignor may, but need not to retain the validity, perfection, and priority of the lien assigned, as evidence of the assignment of a lien recorded under Section 501.113:

(1) apply to the county assessor-collector for the assignee to be named as lienholder on the [certificate of] title; and

(2) notify the debtor of the assignment.

(d) An application under Subsection (b) must be acknowledged[÷

~~[(1) signed] by the assignee[; and~~

~~[(2) accompanied by:~~

~~[(A) the applicable fee;~~

~~[(B) a copy of the assignment agreement executed by the parties;~~

~~and~~

~~[(C) the certificate of title on which the lien to be assigned is recorded].~~

(e) On receipt of the completed application and fee, the department may:

(1) ~~[may]~~ amend the department's records to substitute the assignee for the recorded lienholder; and

(2) ~~[shall]~~ issue a new ~~[certificate of]~~ title as provided by this chapter ~~[Section 501.027]~~.

(f) The issuance of a ~~[certificate of]~~ title under Subsection (e) is recordation of the assignment.

(g) Regardless of whether application is made for the assignee to be named as lienholder on the ~~[certificate of]~~ title, the time of the recordation of a lien assigned under this section is considered to be the time the lien was initially recorded under Section 501.113.

SECTION 54. Section 501.115, Transportation Code, is amended to read as follows:

Sec. 501.115. DISCHARGE OF LIEN. (a) When a debt or claim secured by a lien has been satisfied, the lienholder shall, within a reasonable time not to exceed the maximum time allowed by Section 348.408, Finance Code, execute and deliver to the owner, or the owner's designee, a discharge of the lien in ~~[on]~~ a manner ~~[form]~~ prescribed by the department.

(b) The owner may submit ~~[present]~~ the discharge and ~~[certificate of]~~ title to the department for ~~[county assessor collector with an application for a new certificate of title and the department shall issue]~~ a new ~~[certificate of]~~ title.

SECTION 55. Section 501.116, Transportation Code, is amended to read as follows:

Sec. 501.116. CANCELLATION OF DISCHARGED LIEN. The department may cancel a discharged lien that has been recorded on a ~~[certificate of]~~ title for 10 ~~[six]~~ years or more if the recorded lienholder:

(1) does not exist; or

(2) cannot be located for the owner to obtain a release of the lien.

SECTION 56. Sections 501.134(a), (b), (c), (d), and (g), Transportation Code, are amended to read as follows:

(a) If a printed ~~[certificate of]~~ title is lost or destroyed, the owner or lienholder disclosed on the title ~~[certificate]~~ may obtain, in the manner provided by this section and department rule, a certified copy of the lost or destroyed ~~[certificate of]~~ title directly from the department by applying in ~~[on]~~ a manner ~~[form]~~ prescribed by the department and paying a fee of \$2. A fee collected under this subsection shall be deposited to the credit of the state highway fund and may be spent only as provided by Section 501.138.

(b) If a lien is disclosed on a ~~[certificate of]~~ title, the department may issue a certified copy of the original ~~[certificate of]~~ title only to the first lienholder or the lienholder's verified agent.

(c) The department must plainly mark "certified copy" on the face of a certified copy issued under this section ~~[, and each subsequent certificate issued for the motor vehicle until the vehicle is transferred]~~. A subsequent purchaser or lienholder of the vehicle only acquires the rights, title, or interest in the vehicle held by the holder of the certified copy.

(d) A purchaser or lienholder of a motor vehicle having a certified copy issued under this section may at the time of the purchase or establishment of the lien require that the seller or owner indemnify the purchaser or lienholder and all subsequent purchasers of the vehicle against any loss the person may suffer because of a claim presented on the original ~~[certificate of]~~ title.

(g) The department may issue a certified copy of a ~~[certificate of]~~ title ~~[before the fourth business day after the date application is made]~~ only if the applicant:

(1) is the registered owner of the vehicle, the holder of a recorded lien against the vehicle, or a verified agent of the owner or lienholder; and

(2) submits personal identification as required by department rule~~[-including a photograph, issued by an agency of this state or the United States].~~

SECTION 57. Section 501.135(a), Transportation Code, is amended to read as follows:

(a) The department shall:

(1) make a record of each report to the department that a motor vehicle registered in this state has been stolen or concealed in violation of Section 32.33, Penal Code; and

(2) note the fact of the report in the department's records ~~[of the vehicle's certificate of title]~~.

SECTION 58. Sections 501.138(a), (b), and (b-1), Transportation Code, are amended to read as follows:

(a) An applicant for a ~~[certificate of]~~ title, other than the state or a political subdivision of the state, must pay ~~[the county assessor-collector]~~ a fee of:

(1) \$33 if the applicant's residence is a county located within a nonattainment area as defined under Section 107(d) of the federal Clean Air Act (42 U.S.C. Section 7407), as amended, or is an affected county, as defined by Section 386.001, Health and Safety Code; or

(2) \$28 if the applicant's residence is any other county.

(b) The fees ~~[county assessor-collector]~~ shall be distributed as follows ~~[send]~~:

(1) \$5 of the fee to the county treasurer for deposit in the officers' salary fund;

(2) \$8 of the fee to the department:

(A) together with the application within the time prescribed by Section 501.023; or

(B) if the fee is deposited in an interest-bearing account or certificate in the county depository or invested in an investment authorized by Subchapter A, Chapter 2256, Government Code, not later than the 35th day after the date on which the fee is received; and

(3) the following amount to the comptroller at the time and in the manner prescribed by the comptroller:

(A) \$20 of the fee if the applicant's residence is a county located within a nonattainment area as defined under Section 107(d) of the federal Clean Air Act (42 U.S.C. Section 7407), as amended, or is an affected county, as defined by Section 386.001, Health and Safety Code; or

(B) \$15 of the fee if the applicant's residence is any other county.

(b-1) Fees collected under Subsection (b) to be sent to the comptroller shall be deposited ~~[as follows:~~

~~[(1) before September 1, 2008, to the credit of the Texas emissions reduction plan fund; and~~

~~[(2) on or after September 1, 2008,]~~ to the credit of the Texas Mobility Fund, except that \$5 of each fee imposed under Subsection (a)(1) and deposited on or after September 1, 2008, and before September 1, 2015, shall be deposited to the credit of the Texas emissions reduction plan fund.

SECTION 59. Section 520.031, Transportation Code, as amended by Chapters 836 (**HB 1743**) and 1423 (**HB 2409**), Acts of the 76th Legislature, Regular Session, 1999, is transferred to Subchapter H, Chapter 501, Transportation Code, redesignated as Section 501.145, Transportation Code, and reenacted and amended to read as follows:

Sec. 501.145 ~~[520.031]~~. FILING BY PURCHASER ~~[TRANSFEREE]~~; APPLICATION FOR TRANSFER OF TITLE ~~[AND REGISTRATION]~~. (a) Not later than the later of the 30th ~~[20th working]~~ day after the date of assignment on ~~[receiving]~~ the documents or the date provided by Section 152.069, Tax Code ~~[under Section 520.022 or 520.0225]~~, the purchaser ~~[transferee]~~ of the used motor vehicle shall file with the county assessor-collector:

(1) ~~[the license receipt and]~~ the certificate of title or other evidence of title; or

(2) if appropriate, a document described by Section 502.457 ~~[520.0225(b)(1) or (2)]~~ and the ~~[certificate of]~~ title or other evidence of ownership ~~[title]~~.

(b) The filing under Subsection (a) is an application for transfer of title as required under this chapter ~~[Chapter 501]~~ and ~~[, if the license receipt is filed,]~~ an application for transfer of the registration of the motor vehicle.

(c) ~~[In this section, "working day" means any day other than a Saturday, a Sunday, or a holiday on which county offices are closed.]~~

~~[(d)]~~ Notwithstanding Subsection (a), if the purchaser ~~[transferee]~~ is a member of the armed forces of the United States, a member of the Texas National Guard or of the National Guard of another state serving on active duty under an order of the president of the United States, or a member of a reserve component of the armed forces of the United States serving on active duty under an order of the president of the United States, the documents described by Subsection (a) must be filed with the county assessor-collector not later than the 60th ~~[working]~~ day after the date of assignment of ownership ~~[their receipt by the transferee]~~.

SECTION 60. Section 520.032, Transportation Code, is transferred to Subchapter H, Chapter 501, Transportation Code, redesignated as Section 501.146, Transportation Code, and amended to read as follows:

Sec. 501.146 ~~[520.032]~~. TITLE TRANSFER ~~[FEE]~~; LATE FEE. (a) ~~[The transferee of a used motor vehicle shall pay, in addition to any fee required under Chapter 501 for the transfer of title, a transfer fee of \$2.50 for the transfer of the registration of the motor vehicle.]~~

~~[(b)]~~ If the ~~[transferee does not file the]~~ application for the transfer of title is not filed during the period provided by Section 501.145, the ~~[520.031, the transferee is liable for a]~~ late fee is to be paid to the county assessor-collector when the application is filed. If the seller ~~[transferee]~~ holds a general distinguishing number issued under Chapter 503 of this code or Chapter 2301, Occupations Code, the seller is liable for the late fee in the amount of ~~[the late fee is]~~ \$10. If the seller ~~[transferee]~~ does not hold a general distinguishing number, subject to Subsection ~~(b)~~ ~~[(b-1)]~~ the applicant's ~~[amount of the]~~ late fee is \$25.

~~(b)~~ ~~[(b-1)]~~ If the application is filed after the 60th ~~[31st working]~~ day after the date the purchaser was assigned ownership of ~~[transferee received]~~ the documents under Section 501.0721 ~~[520.022]~~, the late fee imposed under Subsection ~~(a)~~ ~~[(b)]~~ accrues an additional penalty in the amount of \$25 for each subsequent 30-day period, or portion of a 30-day period, in which the application is not filed.

~~(c)~~ ~~[The county assessor collector and the surety on the county assessor collector's bond are liable for the late fee if the county assessor collector does not collect the late fee.]~~

~~[(d)]~~ Subsections ~~(a)~~ and ~~(b)~~ ~~[and (b-1)]~~ do not apply if the motor vehicle is eligible to be issued:

- (1) classic vehicle license plates under Section 504.501; or
- (2) antique vehicle license plates under Section 504.502.

SECTION 61. Section 520.023, Transportation Code, is transferred to Subchapter H, Chapter 501, Transportation Code, redesignated as Section 501.147, Transportation Code, and amended to read as follows:

Sec. 501.147 ~~[520.023]~~. ~~[POWERS AND DUTIES OF DEPARTMENT ON TRANSFER OF USED]~~ VEHICLE TRANSFER NOTIFICATION. (a) On receipt of a written notice of transfer from the seller ~~[transferor]~~ of a motor vehicle, the department shall indicate the transfer on the motor vehicle records maintained by the department. As an alternative to a written notice of transfer, the department shall establish procedures that permit the seller ~~[transferor]~~ of a motor vehicle to electronically submit a notice of transfer to the department through the department's Internet website. A notice of transfer provided through the department's Internet website is not required to bear the signature of the seller ~~[transferor]~~ or include the date of signing.

~~(b)~~ ~~[The department may design the written notice of transfer to be part of the certificate of title for the vehicle.]~~ The notice of transfer ~~[form]~~ shall be provided by the department and must include a place for the seller ~~[transferor]~~ to state:

- (1) a complete description of the vehicle as prescribed by the department ~~[identification number of the vehicle]~~;
- (2) ~~[the number of the license plate issued to the vehicle, if any;~~
- ~~[(3)]~~ the full name and address of the seller ~~[transferor]~~;
- (3) ~~[(4)]~~ the full name and address of the purchaser ~~[transferee]~~;
- (4) ~~[(5)]~~ the date the seller ~~[transferor]~~ delivered possession of the vehicle to the purchaser ~~[transferee]~~;
- (5) ~~[(6)]~~ the signature of the seller ~~[transferor]~~; and

(6) ~~(7)~~ the date the seller ~~[transferor]~~ signed the form.

(c) This subsection applies only if the department receives notice under Subsection (a) before the 30th day after the date the seller ~~[transferor]~~ delivered possession of the vehicle to the purchaser or in accordance with Section 152.069, Tax Code ~~[transferee]~~. After the date of the transfer of the vehicle shown on the records of the department, the purchaser ~~[transferee]~~ of the vehicle shown on the records is rebuttably presumed to be:

(1) the owner of the vehicle; and

(2) subject to civil and criminal liability arising out of the use, operation, or abandonment of the vehicle, to the extent that ownership of the vehicle subjects the owner of the vehicle to criminal or civil liability under another provision of law.

(d) The department may adopt~~[-~~

~~[(1)]~~ rules to implement this section ~~[, and~~

~~[(2)] a fee for filing a notice of transfer under this section in an amount not to exceed the lesser of the actual cost to the department of implementing this section or \$5].~~

(e) This section does not impose or establish civil or criminal liability on the owner of a motor vehicle who transfers ownership of the vehicle but does not disclose the transfer to the department.

(f) ~~[This section does not require the department to issue a certificate of title to a person shown on a notice of transfer as the transferee of a motor vehicle.]~~ The department may not issue a ~~[certificate of]~~ title or register ~~[for]~~ the vehicle until the purchaser ~~[transferee]~~ applies for a title to the county assessor-collector as provided by this chapter ~~[Chapter 501]~~.

(g) A transferor who files the appropriate form with the department as provided by, and in accordance with, this section, whether that form is a part of a ~~[certificate of]~~ title or a form otherwise promulgated by the department to comply with the terms of this section, has no vicarious civil or criminal liability arising out of the use, operation, or abandonment of the vehicle by another person. Proof by the transferor that the transferor filed a form under this section is a complete defense to an action brought against the transferor for an act or omission, civil or criminal, arising out of the use, operation, or abandonment of the vehicle by another person after the transferor filed the form. A copy of the form filed under this section is proof of the filing of the form.

SECTION 62. Section 520.033, Transportation Code, is transferred to Subchapter H, Chapter 501, Transportation Code, redesignated as Section 501.148, Transportation Code, and amended to read as follows:

Sec. 501.148 ~~[520.033]~~. ALLOCATION OF FEES. (a) The county assessor-collector may retain as commission for services provided under this subchapter ~~[half of each transfer fee collected,]~~ half of each late fee~~[-, and half of each additional penalty collected under Section 520.032]~~.

(b) The county assessor-collector shall report and remit the balance of the fees collected to the department on Monday of each week as other ~~[registration]~~ fees are required to be reported and remitted.

(c) Of each late fee collected from a person who does not hold a general distinguishing number by ~~that~~ the department ~~receives~~ under Subsection (b), \$10 may be used only to fund a statewide public awareness campaign designed to inform and educate the public about the provisions of this chapter.

SECTION 63. Section 501.152(b), Transportation Code, is amended to read as follows:

(b) It is not a violation of this section for the beneficial owner of a vehicle to sell or offer to sell a vehicle without having possession of the ~~[certificate of title to the vehicle if the sole reason he or she does not have possession of the [certificate of] title is that the title is in the possession of a lienholder who has not complied with the terms of Section 501.115(a) [of this code].~~

SECTION 64. Section 501.153, Transportation Code, is amended to read as follows:

Sec. 501.153. APPLICATION FOR TITLE FOR STOLEN OR CONCEALED VEHICLE. A person commits an offense if the person applies for a ~~[certificate of]~~ title for a motor vehicle that the person knows is stolen or concealed in violation of Section 32.33, Penal Code.

SECTION 65. Section 501.154, Transportation Code, is amended to read as follows:

Sec. 501.154. ALTERATION OF CERTIFICATE OR RECEIPT. A person commits an offense if the person alters a manufacturer's ~~[or importer's]~~ certificate, a title receipt, or a ~~[certificate of]~~ title.

SECTION 66. Section 501.155(a), Transportation Code, is amended to read as follows:

(a) A person commits an offense if the person knowingly provides false or incorrect information or without legal authority signs the name of another person on:

- (1) an application for a ~~[certificate of]~~ title;
- (2) an application for a certified copy of an original ~~[certificate of]~~ title;
- (3) an assignment of title for a motor vehicle;
- (4) a discharge of a lien on a title for a motor vehicle; or
- (5) any other document required by the department or necessary to the transfer of ownership of a motor vehicle.

SECTION 67. The heading to Section 501.158, Transportation Code, is amended to read as follows:

Sec. 501.158. SEIZURE OF STOLEN VEHICLE OR VEHICLE WITH ALTERED VEHICLE IDENTIFICATION ~~[SERIAL]~~ NUMBER.

SECTION 68. Section 520.035, Transportation Code, is transferred to Subchapter H, Chapter 501, Transportation Code, redesignated as Section 501.161, Transportation Code, and amended to read as follows:

Sec. 501.161 ~~[520.035]~~. EXECUTION OF TRANSFER DOCUMENTS; PENALTY. (a) A person who transfers a motor vehicle in this state shall complete ~~[execute]~~ in full and date as of the date of the transfer all documents relating to the transfer of registration or ~~[certificate of]~~ title. A person who transfers a vehicle commits an offense if the person fails to execute the documents in full.

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

(1) accepts a document described by Subsection (a) that does not contain all of the required information; or

(2) alters or mutilates such a document.

(c) An offense under this section is a misdemeanor punishable by a fine of not less than \$50 and not more than \$200.

SECTION 69. Subchapter H, Chapter 501, Transportation Code, is amended by adding Sections 501.162 and 501.163 to read as follows:

Sec. 501.162. MOTOR NUMBER REQUIRED FOR REGISTRATION; PENALTY. A person commits an offense if the person violates Section 501.0331. An offense under this section is a misdemeanor punishable by a fine of not less than \$50 and not more than \$100.

Sec. 501.163. APPLICATION FOR MOTOR NUMBER RECORD; PENALTY. A person who fails to comply with Section 501.0332 commits an offense. An offense under this section is a misdemeanor punishable by a fine of not less than \$10 and not more than \$100.

SECTION 70. Chapter 501, Transportation Code, is amended by adding Subchapter I to read as follows:

SUBCHAPTER I. ELECTRONIC TITLING SYSTEM

Sec. 501.171. APPLICATION OF SUBCHAPTER. This subchapter applies only if the department implements a titling system under Section 501.173.

Sec. 501.172. DEFINITIONS. In this subchapter:

(1) "Document" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(2) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(3) "Electronic document" means a document that is in an electronic form.

(4) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a document and executed or adopted by a person with the intent to sign the document.

(5) "Paper document" means a document that is in printed form.

Sec. 501.173. ELECTRONIC TITLING SYSTEM. (a) The board by rule may implement an electronic titling system.

(b) A record of title maintained electronically by the department in the titling system is the official record of vehicle ownership unless the owner requests that the department issue a printed title.

Sec. 501.174. VALIDITY OF ELECTRONIC DOCUMENTS. (a) If this chapter requires that a document be an original, be on paper or another tangible medium, or be in writing, the requirement is met by an electronic document that complies with this subchapter.

(b) If a law requires that a document be signed, the requirement is satisfied by an electronic signature.

(c) A requirement that a document or a signature associated with a document be notarized, acknowledged, verified, witnessed, or made under oath is satisfied if the electronic signature of the person authorized to perform that act, and all other information required to be included, is attached to or logically associated with the document or signature. A physical or electronic image of a stamp, impression, or seal is not required to accompany an electronic signature.

Sec. 501.175. RECORDING OF DOCUMENTS. (a) Under the titling system, the department may:

- (1) receive, index, store, archive, and transmit electronic documents;
- (2) provide for access to, and for search and retrieval of, documents and information by electronic means; and
- (3) convert into electronic form:

(A) paper documents that it accepts for the titling of a motor vehicle; and

(B) information recorded and documents that were accepted for the titling of a motor vehicle before the titling system was implemented.

(b) The department shall continue to accept paper documents after the titling system is implemented.

Sec. 501.176. PAYMENT OF FEES BY ELECTRONIC FUNDS TRANSFER OR CREDIT CARD. (a) The department may accept payment by electronic funds transfer, credit card, or debit card of any title or registration fee that the department is required or authorized to collect under this chapter.

(b) The department may collect a fee for processing a title or registration payment by electronic funds transfer, credit card, or debit card in an amount not to exceed the amount of the charges incurred by the department to process the payment.

(c) The department may collect the fee set under Section 2054.2591, Government Code, from a person making a payment by electronic funds transfer, credit card, or debit card through the online project implemented under Section 2054.252, Government Code.

Sec. 501.177. SERVICE CHARGE. If, for any reason, the payment of a fee under this chapter by electronic funds transfer, credit card, or debit card is not honored by the funding institution, or by the electronic funds transfer, credit card, or debit card company on which the funds are drawn, the department may collect from the person who owes the fee being collected a service charge that is for the collection of that original amount and is in addition to the original fee. The amount of the service charge must be reasonably related to the expense incurred by the department in collecting the original amount.

Sec. 501.178. DISPOSITION OF FEES. All fees collected under this subchapter shall be deposited to the credit of the state highway fund.

Sec. 501.179. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT. This subchapter modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act (15 U.S.C. Section 7001 et seq.) but does not modify, limit, or

supersede Section 101(c) of that Act (15 U.S.C. Section 7001(c)) or authorize electronic delivery of any of the notices described in Section 103(b) of that Act (15 U.S.C. Section 7003(b)).

SECTION 71. Section 502.001, Transportation Code, is amended to read as follows:

Sec. 502.001. DEFINITIONS. In this chapter:

(1) "All-terrain vehicle" means a motor vehicle that is:

(A) equipped with a saddle for the use of:

(i) the rider; and

(ii) a passenger, if the motor vehicle is designed by the manufacturer to transport a passenger;

(B) designed to propel itself with three or more tires in contact with the ground;

(C) designed by the manufacturer for off-highway use; and

(D) not designed by the manufacturer primarily for farming or lawn care.

(2) "Apportioned license plate" means a license plate issued in lieu of a truck license plate or combination license plate to a motor carrier in this state who proportionally registers a vehicle owned or leased by the carrier in one or more other states.

(3) ~~(1-a)~~ "Board" means the board of the Texas Department of Motor Vehicles.

(4) "Combination license plate" means a license plate issued for a truck or truck-tractor that is used or intended to be used in combination with a semitrailer that has a gross weight of more than 6,000 pounds.

(5) "Combined gross weight" means the empty weight of the truck-tractor or commercial motor vehicle combined with the empty weight of the heaviest semitrailer used or to be used in combination with the truck-tractor or commercial motor vehicle plus the heaviest net load to be carried on the combination during the registration year.

(6) ~~(1-a)~~ "Commercial fleet" means a group of at least 25 nonapportioned motor vehicles, semitrailers, or trailers owned, operated, or leased by a corporation, limited or general partnership, limited liability company, or other business entity and used for the business purposes of that entity.

(7) ~~(2)~~ "Commercial motor vehicle" means a commercial motor vehicle as defined by Section 644.001 ~~[-other than a motorcycle, designed or used primarily to transport property. The term includes a passenger car reconstructed and used primarily for delivery purposes. The term does not include a passenger car used to deliver the United States mail].~~

(8) "Construction machinery" means a vehicle that:

(A) is used for construction;

(B) is built from the ground up;

(C) is not mounted or affixed to another vehicle such as a trailer;

(D) was originally and permanently designed as machinery;

(E) was not in any way originally designed to transport persons or property; and

(F) does not carry a load, including fuel.

(9) "Credit card" has the meaning assigned by Section 501.002.

(10) "Debit card" has the meaning assigned by Section 501.002.

(11) [(3)] "Department" means the Texas Department of Motor Vehicles.

(12) "Electric bicycle" has the meaning assigned by Section 541.201.

(13) "Electric personal assistive mobility device" has the meaning assigned by Section 551.201.

(14) "Empty weight" means the unladen weight of a truck-tractor or commercial motor vehicle and semitrailer combination fully equipped, as certified by a public weigher or license and weight inspector of the Department of Public Safety.

(15) [(4)] "Farm semitrailer" or "farm trailer" means a vehicle [semitrailer] designed and used primarily as a farm vehicle.

(16) [(5)] "Farm tractor" has the meaning assigned by Section 541.201 [means a motor vehicle designed and used primarily as a farm implement for drawing other implements of husbandry].

(17) "Forestry vehicle" [(6) "Farm trailer"] means a vehicle [trailer] designed and used exclusively for transporting forest products in their natural state, including logs, debarked logs, untreated ties, stave bolts, plywood bolts, pulpwood billets, wood chips, stumps, sawdust, moss, bark, and wood shavings, and property used in production of those products [primarily as a farm vehicle].

(18) [(7)] "Golf cart" means a motor vehicle designed by the manufacturer primarily for use [transporting persons] on a golf course.

(19) "Gross vehicle weight" has the meaning assigned by Section 541.401.

(20) [(8)] "Implements of husbandry" has the meaning assigned by Section 541.201 [means farm implements, machinery, and tools as used in tilling the soil, including self-propelled machinery specifically designed or adapted for applying plant food materials or agricultural chemicals but not specifically designed or adapted for the sole purpose of transporting the materials or chemicals. The term does not include a passenger car or truck].

(21) [(9)] "Light truck" has the meaning assigned by Section 541.201 [means a commercial motor vehicle that has a manufacturer's rated carrying capacity of one ton or less].

(22) [(10)] "Moped" has the meaning assigned by Section 541.201.

(23) [(11)] "Motor bus" includes every vehicle used to transport persons on the public highways for compensation, other than:

(A) a vehicle operated by muscular power; or

(B) a municipal bus.

(24) [(12)] "Motorcycle" has the meaning assigned by Section 521.001 or 541.201, as applicable [means a motor vehicle designed to propel itself with not more than three wheels in contact with the ground. The term does not include a tractor].

(25) [(13)] "Motor vehicle" means a vehicle that is self-propelled.

(26) "Motorized mobility device" has the meaning assigned by Section 542.009.

(27) [(14)] "Municipal bus" includes every vehicle, other than a passenger car, used to transport persons for compensation exclusively within the limits of a municipality or a suburban addition to the municipality.

(28) "Net carrying capacity" means the heaviest net load that is able to be carried on a vehicle, but not less than the manufacturer's rated carrying capacity.

(29) "Oil well servicing, cleanout, or drilling machinery":

(A) has the meaning assigned by Section 623.149; or

(B) means a mobile crane:

(i) that is an unladen, self-propelled vehicle constructed as a machine and used solely to raise, shift, or lower heavy weights by means of a projecting, swinging mast with an engine for power on a chassis permanently constructed or assembled for that purpose; and

(ii) for which the owner has secured a permit from the department under Section 623.142.

(30) [(15)] "Operate temporarily on the highways" means to travel between:

(A) different farms;

(B) a place of supply or storage and a farm; or

(C) an owner's farm and the place at which the owner's farm produce is prepared for market or is marketed.

(31) [(16)] "Owner" means a person who:

(A) holds the legal title of a vehicle;

(B) has the legal right of possession of a vehicle; or

(C) has the legal right of control of a vehicle.

(32) [(17)] "Passenger car" has the meaning assigned by Section 541.201 [means a motor vehicle, other than a motorcycle, golf cart, light truck, or bus, designed or used primarily for the transportation of persons].

(33) "Power sweeper" means an implement, with or without motive power, designed for the removal by a broom, vacuum, or regenerative air system of debris, dirt, gravel, litter, or sand from asphaltic concrete or cement concrete surfaces, including surfaces of parking lots, roads, streets, highways, and warehouse floors. The term includes a vehicle on which the implement is permanently mounted if the vehicle is used only as a power sweeper.

(34) "Private bus" means a bus that:

(A) is not operated for hire; and

(B) is not a municipal bus or a motor bus.

(35) [(18)] "Public highway" includes a road, street, way, thoroughfare, or bridge:

(A) that is in this state;

(B) that is for the use of vehicles;

(C) that is not privately owned or controlled; and

(D) over which the state has legislative jurisdiction under its police power.

(36) ~~[(49)]~~ "Public property" means property owned or leased by this state or a political subdivision of this state.

(37) ~~[(49-a)]~~ "Recreational off-highway vehicle" means a motor vehicle that is:

- (A) equipped with a non-straddle seat for the use of:
 - (i) the rider; and
 - (ii) a passenger, if the vehicle is designed by the manufacturer to transport a passenger;
- (B) designed to propel itself with four or more tires in contact with the ground;
- (C) designed by the manufacturer for off-highway use by the operator only; and
- (D) not designed by the manufacturer primarily for farming or lawn care.

(38) ~~[(20)]~~ "Road tractor" means a vehicle designed for the purpose of mowing the right-of-way of a public highway or a motor vehicle designed or used for drawing another vehicle or a load and not constructed to carry:

- (A) an independent load; or
- (B) a part of the weight of the vehicle and load to be drawn.

(39) ~~[(24)]~~ "Semitrailer" means a vehicle designed or used with a motor vehicle so that part of the weight of the vehicle and its load rests on or is carried by another vehicle.

(40) "Token trailer" means a semitrailer that:

(A) has a gross weight of more than 6,000 pounds; and

(B) is operated in combination with a truck or a truck-tractor that has been issued:

- (i) an apportioned license plate;
- (ii) a combination license plate; or
- (iii) a forestry vehicle license plate.

(41) "Tow truck" means a motor vehicle adapted or used to tow, winch, or otherwise move another motor vehicle.

(42) ~~[(22)]~~ "Trailer" means a vehicle that:

(A) is designed or used to carry a load wholly on its own structure; and

(B) is drawn or designed to be drawn by a motor vehicle.

(43) "Travel trailer" has the meaning assigned by Section 501.002.

(44) ~~[(23)]~~ "Truck-tractor" means a motor vehicle:

(A) designed and used primarily for drawing another vehicle; and
(B) not constructed to carry a load other than a part of the weight of the vehicle and load to be drawn.

(45) ~~[(24)]~~ "Vehicle" means a device in or by which a person or property is or may be transported or drawn on a public highway, other than a device used exclusively on stationary rails or tracks.

SECTION 72. Section 502.0021, Transportation Code, is amended to read as follows:

Sec. 502.0021. RULES AND FORMS. (a) The department may adopt rules to administer this chapter.

(b) The department shall post forms on the Internet and~~[-~~

~~[(1) prescribe forms determined by the department to be necessary for the administration of this chapter; and~~

~~[(2)] provide each county assessor-collector with a sufficient [an adequate] supply of any [each form] necessary forms on request [for the performance of a duty under this chapter by the assessor collector].~~

SECTION 73. Section 502.052, Transportation Code, is transferred to Subchapter A, Chapter 502, Transportation Code, redesignated as Section 502.00211, Transportation Code, and amended to read as follows:

Sec. 502.00211 ~~[502.052]~~. DESIGN OF ~~[LICENSE PLATES AND] REGISTRATION INSIGNIA[- REFLECTORIZED MATERIAL]~~. ~~[(a)]~~ The department shall prepare the designs and specifications ~~[of license plates and devices selected by the board]~~ to be used as the registration insignia.

~~[(b) The department shall design each license plate to include a design at least one-half inch wide that represents in silhouette the shape of Texas and that appears between letters and numerals. The department may omit the silhouette of Texas from specially designed license plates.~~

~~[(c) To promote highway safety, each license plate shall be made with a reflectORIZED material that provides effective and dependable brightness for the period for which the plate is issued. The purchase of reflectORIZED material shall be submitted to the comptroller for approval.]~~

SECTION 74. The heading to Section 502.0023, Transportation Code, is amended to read as follows:

Sec. 502.0023. EXTENDED REGISTRATION OF COMMERCIAL FLEET ~~[MOTOR]~~ VEHICLES.

SECTION 75. Section 502.0023, Transportation Code, is amended by amending Subsections (a) and (c) and adding Subsection (i) to read as follows:

(a) Notwithstanding Section 502.044(c) ~~[502.158(e)]~~, the department shall develop and implement a system of registration to allow an owner of a commercial fleet to register the motor vehicles, semitrailers, and trailers in the commercial fleet for an extended registration period of not less than one year or more than eight years. The owner may select the number of years for registration under this section within that range and register the commercial fleet for that period. Payment for all registration fees for the entire registration period selected is due at the time of registration.

(c) In addition to the registration fees prescribed by this chapter ~~[Subchapter D]~~, an owner registering a commercial fleet under this section shall pay:

(1) an annual commercial fleet registration fee of \$10 per motor vehicle, semitrailer, or trailer in the fleet; and

(2) except as provided by Subsection (e), a one-time license plate manufacturing fee of \$1.50 for each fleet motor vehicle, semitrailer, or trailer license plate.

(i) The department may provide for credits for fleet registration.

SECTION 76. Section 502.185, Transportation Code, is transferred to Subchapter A, Chapter 502, Transportation Code, redesignated as Section 502.010, Transportation Code, and amended to read as follows:

Sec. 502.010 ~~[502.185]~~. COUNTY SCOFFLAW ~~[REFUSAL TO REGISTER VEHICLE IN CERTAIN COUNTIES]~~. (a) A county assessor-collector or the department may refuse to register a motor vehicle if the assessor-collector or the department receives information that the owner of the vehicle owes the county money for a fine, fee, or tax that is past due.

(b) A county may contract with the department to provide information to the department necessary to make a determination under Subsection (a).

(c) A county that has a contract under Subsection (b) shall notify the department regarding a person for whom the county assessor-collector or the department has refused to register a motor vehicle on:

(1) the person's payment or other means of discharge of the past due fine, fee, or tax; or

(2) perfection of an appeal of the case contesting payment of the fine, fee, or tax.

(d) After notice is received under Subsection (c), the county assessor-collector or the department may not refuse to register the motor vehicle under Subsection (a).

(e) A contract under Subsection (b) must be entered into in accordance with Chapter 791, Government Code, and is subject to the ability of the parties to provide or pay for the services required under the contract.

(f) A county that has a contract under Subsection (b) may impose an additional fee to a person paying a fine, fee, or tax to the county after it is past due. The additional fee may be used only to reimburse the department or the county for its expenses for providing services under the contract.

(g) In this section:

(1) a fine, fee, or tax is considered past due if it is unpaid 90 or more days after the date it is due; and

(2) registration of a motor vehicle includes renewal of the registration of the vehicle.

(h) This section does not apply to the registration of a motor vehicle under Section 501.0234, unless the vehicle is titled and registered in the name of a person who holds a general distinguishing number.

SECTION 77. The heading to Subchapter B, Chapter 502, Transportation Code, is amended to read as follows:

SUBCHAPTER B. REGISTRATION REQUIREMENTS ~~[STATE ADMINISTRATION]~~

SECTION 78. Section 502.002, Transportation Code, is transferred to Subchapter B, Chapter 502, Transportation Code, redesignated as Section 502.040, Transportation Code, and amended to read as follows:

Sec. 502.040 ~~[502.002]~~. REGISTRATION REQUIRED; GENERAL RULE. (a) Not more than 30 days after purchasing a vehicle or becoming a resident of this state, the ~~[The]~~ owner of a motor vehicle, trailer, or semitrailer shall apply for the registration of the vehicle for:

(1) each registration year in which the vehicle is used or to be used on a public highway; and

(2) if the vehicle is unregistered for a registration year that has begun and that applies to the vehicle and if the vehicle is used or to be used on a public highway, the remaining portion of that registration year.

(b) The application must be accompanied by personal identification as determined by department rule and made in a manner prescribed by [to] the department:

(1) through the county assessor-collector of the county in which the owner resides; or

(2) if the county in which the owner resides has been declared by the governor as a disaster area, through the county assessor-collector of a county that is one of the closest unaffected counties to a county that asks for assistance and:

(A) continues to be declared by the governor as a disaster area because the county has been rendered inoperable by the disaster; and

(B) is inoperable for a protracted period of time.

(c) A provision of this chapter that conflicts with this section prevails over this section to the extent of the conflict.

(d) A county assessor-collector, a deputy county assessor-collector, or a person acting on behalf of a county assessor-collector is not liable to any person for:

(1) refusing to register a motor vehicle because of the person's failure to submit evidence of residency that complies with the department's rules; or

(2) registering a motor vehicle under this section.

SECTION 79. Section 502.157, Transportation Code, is transferred to Subchapter B, Chapter 502, Transportation Code, redesignated as Section 502.041, Transportation Code, and amended to read as follows:

Sec. 502.041 ~~[502.157]~~. INITIAL REGISTRATION. (a) Notwithstanding Section ~~502.040 [502.002]~~, ~~[when a motor vehicle must be registered before an application for a certificate of title will be accepted,]~~ the owner of a ~~[the]~~ vehicle may concurrently apply for a ~~[certificate of]~~ title and for registration through the county assessor-collector of the county in which:

(1) the owner resides; or

(2) the vehicle is purchased or encumbered.

(b) The first time an owner applies for registration of a vehicle, the owner may demonstrate compliance with Section ~~502.046(a) [502.153(a)]~~ as to the vehicle by showing proof of financial responsibility in any manner specified in Section ~~502.046(c) [502.153(c)]~~ as to:

(1) any vehicle of the owner; or

(2) any vehicle used as part of the consideration for the purchase of the vehicle the owner applies to register.

SECTION 80. Section 502.152, Transportation Code, is transferred to Subchapter B, Chapter 502, Transportation Code, redesignated as Section 502.042, Transportation Code, and amended to read as follows:

Sec. 502.042 ~~[502.152]~~. ~~[CERTIFICATE OF]~~ TITLE REQUIRED FOR REGISTRATION. ~~[(a)]~~ The department may not register or renew the registration of a motor vehicle for which a ~~[certificate of]~~ title is required under Chapter 501 unless the owner:

- (1) obtains a ~~[certificate of]~~ title for the vehicle; or
- (2) presents satisfactory evidence that a ~~[certificate of]~~ title was previously issued to the owner by the department or another jurisdiction.

~~[(b) This section does not apply to an automobile that was purchased new before January 1, 1936.]~~

SECTION 81. Section 502.151, Transportation Code, is transferred to Subchapter B, Chapter 502, Transportation Code, redesignated as Section 502.043, Transportation Code, and amended to read as follows:

Sec. 502.043 ~~[502.151]~~. APPLICATION FOR REGISTRATION. (a) An application for vehicle registration must:

- (1) be made in a manner prescribed and include the information required [on a form furnished] by the department by rule; and
- (2) contain a [the] full description [name and address of the owner] of the vehicle as required by department rule ;
- ~~[(3) contain a brief description of the vehicle;~~
- ~~[(4) contain any other information required by the department; and~~
- ~~[(5) be signed by the owner].~~

(b) The department shall deny the ~~[For a new motor vehicle, the description of the vehicle must include the vehicle's:~~

- ~~[(1) trade name;~~
- ~~[(2) year model;~~
- ~~[(3) style and type of body;~~
- ~~[(4) weight, if the vehicle is a passenger car;~~
- ~~[(5) net carrying capacity and gross weight, if the vehicle is a commercial motor vehicle;~~
- ~~[(6) vehicle identification number; and~~
- ~~[(7) date of sale by the manufacturer or dealer to the applicant.~~

~~[(c) An applicant for]~~ registration of a commercial motor vehicle, truck-tractor, trailer, or semitrailer if the applicant:

- (1) has a business operated, managed, or otherwise controlled or affiliated with a person who is ineligible for registration or whose privilege to operate has been suspended, including the applicant entity, a relative, family member, corporate officer, or shareholder;
- (2) has a vehicle that has been prohibited from operating by the Federal Motor Carrier Safety Administration for safety-related reasons;

(3) is a carrier whose business is operated, managed, or otherwise controlled or affiliated with a person who is ineligible for registration, including the owner, a relative, a family member, a corporate officer, or a shareholder; or

(4) fails to [must] deliver to the county assessor-collector proof of [an affidavit showing] the weight of the vehicle, the maximum load to be carried on the vehicle, and the gross weight for which the vehicle is to be registered. [The assessor collector shall keep the affidavit on file.]

(c) ~~[(d)]~~ In lieu of filing an application during a year as provided by Subsection (a), the owner of a vehicle registered in any state for that year or the preceding year may present the registration receipt and transfer receipt, if any. The county assessor-collector shall accept the receipt as an application for renewal of the registration if the receipt indicates the applicant owns the vehicle. This section allows issuance for registration purposes only but does not authorize the department to issue a title.

(d) The department may require an applicant for registration to provide current personal identification as determined by department rule. Any identification number required by the department under this subsection may be entered into the department's electronic titling system but may not be printed on the title.

~~[(e) If an owner or claimed owner has lost or misplaced the registration receipt or transfer receipt for the vehicle, the county assessor-collector shall register the vehicle on the person's furnishing to the assessor-collector satisfactory evidence, by affidavit or otherwise, that the person owns the vehicle.~~

~~[(f) A county assessor-collector shall date each registration receipt issued for a vehicle with the date on which the application for registration is made.]~~

SECTION 82. Section 502.158, Transportation Code, is transferred to Subchapter B, Chapter 502, Transportation Code, redesignated as Section 502.044, Transportation Code, and amended to read as follows:

Sec. ~~502.158~~ 502.044 ~~[502.158]~~. REGISTRATION PERIOD ~~[YEAR]~~. (a) The department shall designate a vehicle registration year of 12 consecutive months to begin on the first day of a calendar month and end on the last day of the 12th calendar month.

(b) The department shall designate vehicle registration years so as to distribute the work of the department and the county assessor-collectors as uniformly as possible throughout the year. The department may establish separate registration years for any vehicle or classification of vehicle and may adopt rules to administer the year-round registration system.

(c) The department may designate a registration period of less than 12 months to be ~~[- The registration fee for a registration period of less than 12 months is]~~ computed at a rate of one-twelfth the annual registration fee multiplied by the number of months in the registration period. The board by rule may allow payment of [department may not designate a registration period of more than 12 months, but:

(1) with the consent of the department, an owner may pay] registration fees for a designated period not to exceed the amount of time determined by department rule ~~[of more than 12 months; and~~

~~(2) an owner of a vehicle may pay registration fees for a designated period of 12, 24, or 36 months.~~

~~[(d) An application for registration shall be made during the two months preceding the date on which the registration expires.~~

~~[(e) The fee to be paid for renewing a registration is the fee that will be in effect on the first day of the vehicle registration year].~~

(d) ~~[(e)]~~ The department shall issue ~~[the applicant for registration who pays registration fees for a designated period of 24 or 36 months]~~ a registration receipt and registration insignia that are valid until the expiration of the designated period.

SECTION 83. Section 502.176, Transportation Code, is transferred to Subchapter B, Chapter 502, Transportation Code, redesignated as Section 502.045, Transportation Code, and amended to read as follows:

Sec. 502.045 ~~[502.176]~~. DELINQUENT REGISTRATION. (a) A registration fee ~~[prescribed by this chapter]~~ for a vehicle becomes delinquent immediately if the vehicle is used on a public highway without the fee having been paid in accordance with this chapter.

(b) An [A county assessor collector that determines that an] applicant for registration who provides [for which payment of the registration fee is delinquent has provided] evidence [acceptable to the assessor collector sufficient] to establish good reason for delinquent registration and who [that the application] complies with the other requirements for registration under this chapter may [shall] register the vehicle for a 12-month period that ends on the last day of the 11th month after the month in which the registration occurs under this subsection. ~~[The registration period for vehicles registered in accordance with Sections 502.164, 502.167, 502.203, 502.255, 502.267, 502.277, 502.278, 502.293, as added by Chapter 1222, Acts of the 75th Legislature, Regular Session, 1997, and 502.295, as added by Chapter 625, Acts of the 75th Legislature, Regular Session, 1997, will end on the annual registration date, and the registration fees will be prorated.]~~

(c) An [A county assessor collector that determines that an] applicant for registration who [that] is delinquent and has not provided evidence acceptable [to the assessor collector sufficient] to establish good reason for delinquent registration but who [that the application] complies with the other requirements for registration under this chapter shall register the vehicle for a 12-month period without changing the initial month of registration.

(d) A person who has been arrested or received a citation for a violation of Section 502.472 ~~[502.402]~~ may register the vehicle being operated at the time of the offense ~~[with the county assessor collector]~~ for a 12-month period without change to the initial month of registration only if the person:

- (1) meets the other requirements for registration under this chapter; and
- (2) pays an additional charge equal to 20 percent of the prescribed fee.

(e) The board by rule [county assessor collector] shall adopt a list of evidentiary items sufficient to establish good reason for delinquent registration under Subsection (b) and provide for the ~~[forms of]~~ evidence that may be used to establish good reason under that subsection. ~~[The list of evidentiary items adopted under this section must allow for delinquent registration under Subsection (b) because of:~~

- ~~[(1) extensive repairs on the vehicle;~~
- ~~[(2) the absence of the owner of the vehicle from this country;~~
- ~~[(3) seasonal use of the vehicle; or~~

~~[(4) any other reason determined by the assessor-collector to be a valid explanation for the delinquent registration.]~~

(f) The board ~~[department]~~ by rule shall adopt procedures to implement this section in connection with the delinquent registration of a vehicle registered directly with the department or through other means.

SECTION 84. Section 502.153, Transportation Code, is transferred to Subchapter B, Chapter 502, Transportation Code, redesignated as Section 502.046, Transportation Code, and amended to read as follows:

Sec. 502.046 ~~[502.153]~~. EVIDENCE OF FINANCIAL RESPONSIBILITY. (a) ~~Evidence [Except as provided by Subsection (j), the owner of a motor vehicle, other than a trailer or semitrailer, for which evidence]~~ of financial responsibility ~~as [is] required by Section 601.051 other than for a trailer or semitrailer [or a person who represents the owner for purposes of registering a motor vehicle]~~ shall be submitted ~~[submit evidence of financial responsibility]~~ with the application for registration under Section 502.043 ~~[502.151]~~. A county assessor-collector may not register the motor vehicle unless the owner or the owner's representative submits the evidence of financial responsibility.

(b) The county assessor-collector shall examine the evidence of financial responsibility to determine whether it complies with Subsection (c). After examination, ~~[examining]~~ the evidence ~~[-, the assessor-collector]~~ shall be returned ~~[return the evidence]~~ unless it is in the form of a photocopy or an electronic submission.

(c) In this section, evidence of financial responsibility may be:

(1) a document listed under Section 601.053(a) or verified in compliance with Section 601.452;

(2) a liability self-insurance or pool coverage document issued by a political subdivision or governmental pool under the authority of Chapter 791, Government Code, Chapter 119, Local Government Code, or other applicable law in at least the minimum amounts required by Chapter 601;

(3) a photocopy of a document described by Subdivision (1) or (2); or

(4) an electronic submission of a document or the information contained in a document described by Subdivision (1) or (2).

(d) A personal automobile policy used as evidence of financial responsibility under this section must comply with Section 1952.052 et seq. and Sections 2301.051 through 2301.055 ~~[Article 5.06 or 5.145]~~, Insurance Code.

(e) At the time of registration, the county assessor-collector shall provide to a person registering a motor vehicle a ~~[separate]~~ statement that the motor vehicle ~~[being registered]~~ may not be operated in this state unless:

(1) liability insurance coverage for the motor vehicle in at least the minimum amounts required by law remains in effect to insure against potential losses; or

(2) the motor vehicle is exempt from the insurance requirement because the person has established financial responsibility in a manner described by Sections ~~[Section]~~ 601.051(2)-(5) or is exempt under Section 601.052.

(f) A county assessor-collector is not liable to any person for refusing to register a motor vehicle to which this section applies because of the person's failure to submit evidence of financial responsibility that complies with Subsection (c).

(g) A county, a county assessor-collector, a deputy county assessor-collector, a person acting for or on behalf of a county or a county assessor-collector, or a person acting on behalf of an owner for purposes of registering a motor vehicle is not liable to any person for registering a motor vehicle under this section.

(h) This section does not prevent a person from registering a motor vehicle by mail or through an electronic submission.

(i) To be valid under this section, an electronic submission must be in a format that is:

(1) submitted by electronic means, including a telephone, facsimile machine, or computer;

(2) approved by the department; and

(3) authorized by the commissioners court for use in the county.

(j) This section does not apply to a vehicle registered pursuant to Section 501.0234.

SECTION 85. Section 502.009, Transportation Code, is transferred to Subchapter B, Chapter 502, Transportation Code, redesignated as Section 502.047, Transportation Code, and amended to read as follows:

Sec. 502.047 [~~502.009~~]. MOTOR VEHICLE EMISSIONS INSPECTION AND MAINTENANCE REQUIREMENTS. (a) The Department of Public Safety shall ensure compliance with the motor vehicle emissions inspection and maintenance program through a vehicle inspection sticker-based enforcement system except as provided by this section or Section 548.3011. Subsections (b)-(e) apply only if the United States Environmental Protection Agency determines that the state has not demonstrated, as required by 40 C.F.R. Section 51.361, that sticker-based enforcement of the program is more effective than registration-based enforcement and gives the Texas [~~Natural Resource Conservation~~] Commission on Environmental Quality or the governor written notification that the reregistration-based enforcement of the program, as described by those subsections, will be required. If Subsections (b)-(e) are made applicable as provided by this subsection, the department shall terminate reregistration-based enforcement of the program under those subsections on the date the United States Environmental Protection Agency gives the Texas [~~Natural Resource Conservation~~] Commission on Environmental Quality or a person the commission designates written notification that reregistration-based enforcement is not required for the state implementation plan.

(b) A [~~The department may not register a~~] motor vehicle may not be registered if the department receives from the Texas [~~Natural Resource Conservation~~] Commission on Environmental Quality or the Department of Public Safety notification that the registered owner of the vehicle has not complied with Subchapter F, Chapter 548.

(c) A motor vehicle ~~[The county tax assessor-collector]~~ may not be registered if the ~~[register a]~~ vehicle was denied registration under Subsection (b) unless ~~[the tax assessor-collector has]~~ verification is received that the registered vehicle owner is in compliance with Subchapter F, Chapter 548.

(d) The department, the Texas ~~[Natural Resource Conservation]~~ Commission on Environmental Quality, and the Department of Public Safety shall enter an agreement regarding the responsibilities for costs associated with implementing this section.

(e) A county tax assessor-collector is not liable to any person for refusing to register a motor vehicle because of the person's failure to provide verification of the person's compliance with Subchapter F, Chapter 548.

SECTION 86. Section 502.005, Transportation Code, is transferred to Subchapter B, Chapter 502, Transportation Code, redesignated as Section 502.048, Transportation Code, and amended to read as follows:

Sec. 502.048 ~~[502.005]~~. REFUSAL TO REGISTER UNSAFE VEHICLE. ~~[(a)]~~ The department may refuse to register a motor vehicle and may cancel, suspend, or revoke a registration if the department determines that a motor vehicle is unsafe, improperly equipped, or otherwise unfit to be operated on a public highway.

~~[(b) The department may refuse to register a motorcycle and may suspend or revoke the registration of a motorcycle if the department determines that the motorcycle's braking system does not comply with Section 547.408.]~~

SECTION 87. Section 502.055(b), Transportation Code, is amended to read as follows:

(b) The department may require an applicant for registration under this chapter to provide the department with evidence of:

(1) the manufacturer's rated carrying capacity for the vehicle; or

(2) ~~[the nominal tonnage rating of the vehicle;~~

~~[(3)]~~ the gross vehicle weight rating ~~[of the vehicle; or~~

~~[(4) any combination of information described in Subdivisions (1)-(3)].~~

SECTION 88. Section 502.178, Transportation Code, is transferred to Subchapter B, Chapter 502, Transportation Code, redesignated as Section 502.057, Transportation Code, and amended to read as follows:

Sec. 502.057 ~~[502.178]~~. REGISTRATION RECEIPT. ~~[(a)]~~ The department shall issue or require to be issued to the owner of a vehicle registered under this chapter a registration receipt showing the information required by rule ~~[(a)]~~:

~~[(1) the date of issuance;~~

~~[(2) the license number assigned to the vehicle;~~

~~[(3) the name and address of the owner; and~~

~~[(4) other information as determined by the department.~~

~~[(b) The registration receipt issued for a commercial motor vehicle, truck tractor, trailer, or semitrailer must show the gross weight for which the vehicle is registered].~~

SECTION 89. Section 502.179, Transportation Code, is transferred to Subchapter B, Chapter 502, Transportation Code, redesignated as Section 502.058, Transportation Code, and amended to read as follows:

Sec. 502.058 ~~[502.179]~~. DUPLICATE REGISTRATION RECEIPT.

(a) The owner of a vehicle for which the registration receipt has been lost or destroyed may obtain a duplicate receipt from the department or the county assessor-collector who issued the original receipt by paying a fee of \$2.

(b) The office issuing a duplicate receipt shall retain the fee received ~~[as a fee of office]~~.

SECTION 90. Section 502.180, Transportation Code, is transferred to Subchapter B, Chapter 502, Transportation Code, redesignated as Section 502.059, Transportation Code, and amended to read as follows:

Sec. 502.059 ~~[502.180]~~. ISSUANCE OF ~~[LICENSE PLATE OR]~~ REGISTRATION INSIGNIA. (a) On payment of the prescribed fee ~~[, the department shall issue to]~~ an applicant for motor vehicle registration shall be issued a ~~[license plate or set of plates or a device that, when attached to the vehicle as prescribed by the department, is the]~~ registration insignia ~~[for the period for which it was issued]~~.

(b) ~~[Subject to Subchapter I, the department shall issue only one license plate or set of plates for a vehicle during a five year period.]~~

~~[(c)]~~ On application and payment of the prescribed fee for a renewal of the registration of a vehicle through the period set by rule ~~[for the first, second, third, or fourth registration year after the issuance of a license plate or set of plates for the vehicle]~~, the department shall issue a registration insignia for the validation of the license plate or plates to be attached as provided by Subsection (c) ~~[(d)]~~.

(c) ~~[(d)]~~ Except as provided by Subsection (f) ~~[(h)]~~, the registration insignia for validation of a license plate shall be attached to the inside of the vehicle's windshield, if the vehicle has a windshield, within six inches of the place where the motor vehicle inspection sticker is required to be placed. If the vehicle does not have a windshield, the owner, when applying for registration or renewal of registration, shall notify the department, and the department shall issue a distinctive device for attachment to the rear license plate of the vehicle.

(d) Department ~~[(e)]~~ ~~The department shall adopt rules for the issuance and use of license plates and registration insignia issued under this chapter. The~~ rules may provide for the use of an automated registration process, including:

- (1) the automated on-site production of registration insignia; and
- (2) automated on-premises and off-premises self-service registration.

(e) Subsection (c) does ~~[(f)]~~ ~~Subsections (b) (d) do]~~ not apply to:

(1) the issuance of specialized license plates as designated by the department, including state official license plates, exempt plates for governmental entities, and temporary registration plates; or

(2) the issuance or validation of replacement license plates, except as provided by Chapter 504 ~~[Section 502.184]~~.

(f) ~~[(g)]~~ ~~The department shall provide a separate and distinctive tab to be affixed to the license plate of an automobile, pickup, or recreational vehicle that is offered for rent, as a business, to any part of the public.~~

~~[(h)]~~ The registration insignia ~~[for validation of a license plate]~~ shall be attached to the rear license plate of the vehicle, if the vehicle is:

- (1) a motorcycle;
- (2) machinery used exclusively to drill water wells or construction machinery for which a distinguishing license plate has been issued under Section 502.146 ~~[504.504]~~; or
- (3) oil well servicing, oil clean out, or oil well drilling machinery or equipment for which a distinguishing license plate has been issued under Subchapter G, Chapter 623.

SECTION 91. Section 502.184, Transportation Code, as effective September 1, 2011, is transferred to Subchapter B, Chapter 502, Transportation Code, redesignated as Section 502.060, Transportation Code, and amended to read as follows:

Sec. 502.060 ~~[502.184]~~. REPLACEMENT OF REGISTRATION INSIGNIA. (a) The owner of a registered motor vehicle may obtain a replacement registration insignia by:

- (1) certifying that the replacement registration insignia will not be used on any other vehicle owned or operated by the person making the statement;
- (2) paying a fee of \$6 plus the fees required by Section 502.356(a) ~~[502.1705(a)]~~ for each replacement registration insignia, except as provided by other law; and
- (3) returning each replaced registration insignia in the owner's possession.

(b) No fee is required under this section if the replacement fee for a license plate has been paid under Section 504.007 ~~[502.1841]~~.

~~(c) [The fee for replacement of license plates issued under Section 504.507 is the amount prescribed by the department as necessary to recover the cost of providing the replacement plates.]~~

~~[(d) If license plates approved under Section 504.501(b) or 504.502(e) are lost, stolen, or mutilated, the owner of the vehicle may obtain approval of another set of license plates as provided by Section 504.501 or 504.502, respectively. The fee for approval of replacement license plates is \$5.]~~

~~[(e)]~~ A county assessor-collector may not issue a replacement registration insignia without complying with this section.

~~(d) [(f)]~~ A county assessor-collector shall retain \$2.50 of each fee collected under this section and shall report and send the remainder to the department.

~~[(g) Replacement license plates may be used in the registration year in which the plates are issued and during each succeeding year of the five year period as prescribed by Section 502.180(b) if the registration insignia is properly attached.]~~

~~[(h) Subsection (g) does not apply to the issuance of specialized license plates as designated by the department, including state official license plates, exempt plates for governmental entities, and temporary registration plates.]~~

~~[(i) The owner of a vehicle listed in Section 502.180(h) may obtain replacement plates and a replacement registration insignia by paying a fee of \$5 plus the fees required by Sections 502.170(a) and 502.1705(a).]~~

SECTION 92. The heading to Subchapter C, Chapter 502, Transportation Code, is amended to read as follows:

SUBCHAPTER C. SPECIAL REGISTRATIONS [~~COUNTY~~
~~ADMINISTRATION~~]

SECTION 93. Section 502.0025, Transportation Code, is transferred to Subchapter C, Chapter 502, Transportation Code, redesignated as Section 502.090, Transportation Code, and amended to read as follows:

Sec. 502.090 [~~502.0025~~]. EFFECT OF CERTAIN MILITARY SERVICE ON REGISTRATION REQUIREMENT. (a) This section applies only to a motor vehicle that is owned by a person who:

- (1) is a resident of this state;
- (2) is on active duty in the armed forces of the United States;
- (3) is stationed in or has been assigned to another nation under military orders; and

(4) has registered the vehicle or been issued a license for the vehicle under the applicable status of forces agreement by:

(A) the appropriate branch of the armed forces of the United States; or

(B) the nation in which the person is stationed or to which the person has been assigned.

(b) Unless the registration or license issued for a vehicle described by Subsection (a) is suspended, canceled, or revoked by this state as provided by law:

- (1) Section 502.040(a) [~~502.002(a)~~] does not apply; and
- (2) the registration or license issued by the armed forces or host nation remains valid and the motor vehicle may be operated in this state under that registration or license for a period of not more than 90 days after the date on which the vehicle returns to this state.

SECTION 94. Section 502.054, Transportation Code, is transferred to Subchapter C, Chapter 502, Transportation Code, redesignated as Section 502.091, Transportation Code, and amended to read as follows:

Sec. 502.091 [~~502.054~~]. INTERNATIONAL REGISTRATION PLAN [~~AGREEMENTS WITH OTHER JURISDICTIONS; OFFENSE~~]. (a) The department, through its director, may enter into an agreement with an authorized officer of another jurisdiction, including another state of the United States, a foreign country or a state, province, territory, or possession of a foreign country, to provide for:

(1) the registration of vehicles by residents of this state and nonresidents on an allocation or mileage apportionment plan, as under the International Registration Plan; and

(2) the exemption from payment of registration fees by nonresidents if residents of this state are granted reciprocal exemptions.

(b) The department may adopt and enforce rules to carry out the International Registration Plan or other agreement under this section.

(c) To carry out the International Registration Plan or other agreement under this section, the department shall direct that fees collected for other jurisdictions under the agreement be deposited to the credit of the proportional registration distributive fund in the state treasury and distributed to the appropriate jurisdiction through that fund. The department is not required to refund any amount less than \$10 unless required by the plan.

(d) This section prevails to the extent of conflict with another law relating to the subject of this section.

(e) A person commits an offense if the person owns or operates a vehicle not registered in this state in violation of:

(1) an agreement under this section; or

(2) the applicable registration laws of this state, in the absence of an agreement under this section.

(f) An offense under Subsection (e) is a misdemeanor punishable by a fine not to exceed \$200.

SECTION 95. Section 502.355, Transportation Code, is transferred to Subchapter C, Chapter 502, Transportation Code, redesignated as Section 502.092, Transportation Code, and amended to read as follows:

Sec. 502.092 ~~[502.355]~~. NONRESIDENT-OWNED VEHICLES USED TO TRANSPORT FARM PRODUCTS~~[- OFFENSE]~~. (a) The department may issue to a nonresident owner a permit for a truck, truck-tractor, trailer, or semitrailer that:

(1) is registered in the owner's home state or country; and

(2) will be used to transport:

(A) farm products produced in this state from the place of production to a place of market or storage or a railhead that is not more than 75 miles from the place of production;

(B) machinery used to harvest farm products produced in this state; or

(C) farm products produced outside this state from the point of entry into this state to a place of market, storage, or processing or a railhead or seaport that is not more than 80 miles from the point of entry.

(b) The department shall issue a distinguishing insignia for a vehicle issued a permit under this section. The insignia must be attached to the vehicle in lieu of regular license plates and must show the permit expiration date. A permit issued under this section is valid until the earlier of:

(1) the date the vehicle's registration in the owner's home state or country expires; or

(2) the 30th day after the date the permit is issued.

(c) A person may obtain a permit under this section by:

(1) applying to the department in a manner ~~[on a form]~~ prescribed by the department;

(2) paying a fee equal to 1/12 the registration fee prescribed by this chapter for the vehicle;

(3) furnishing satisfactory evidence that the motor vehicle is insured under an insurance policy that complies with Section 601.072 and that is written by:

(A) an insurance company or surety company authorized to write motor vehicle liability insurance in this state; or

(B) with the department's approval, a surplus lines insurer that meets the requirements of Chapter 981, Insurance Code, and rules adopted by the commissioner of insurance under that chapter, if the applicant is unable to obtain insurance from an insurer described by Paragraph (A); and

(4) furnishing evidence that the vehicle has been inspected as required under Chapter 548.

(d) A nonresident owner may not obtain more than three permits under this section during a registration year.

(e) A vehicle for which a permit is issued under this section may not be operated in this state after the permit expires unless the owner:

(1) obtains another temporary permit; or

(2) registers the vehicle under Section 502.253, 502.254, 502.255 [~~502.162, 502.165, 502.166~~], or 502.256 [~~502.167~~], as appropriate, for the remainder of the registration year.

(f) A vehicle for which a permit is issued under this section may not be registered under Section 502.433 [~~502.163~~].

(g) A mileage referred to in this section is a state highway mileage.

~~[(h) A person operating a vehicle under a permit issued under this section commits an offense if the person:~~

~~[(1) transports farm products to a place of market, storage, or processing or a railhead or seaport that is farther from the place of production or point of entry, as appropriate, than the distance provided for in the permit; or~~

~~[(2) follows a route other than that prescribed by the board.~~

~~[(i) An offense under Subsection (h) is a misdemeanor punishable by a fine of not less than \$25 or more than \$200.]~~

SECTION 96. Section 502.353, Transportation Code, is transferred to Subchapter C, Chapter 502, Transportation Code, redesignated as Section 502.093, Transportation Code, and amended to read as follows:

Sec. 502.093 [~~502.353~~]. [~~FOREIGN COMMERCIAL VEHICLES;~~] ANNUAL PERMITS [~~-OFFENSE~~]. (a) The department may issue an annual permit in lieu of registration to a foreign commercial motor vehicle, trailer, or semitrailer that [±

[~~(1)~~] is subject to registration in this state [±] and

[~~(2)~~] is not authorized to travel on a public highway because of the lack of registration in this state or the lack of reciprocity with the state or country in which the vehicle is registered.

(b) A permit issued under this section [±

[~~(1)~~ is in lieu of registration; and

[~~(2)~~] is valid for a vehicle registration year to begin on the first day of a calendar month designated by the department and end on the last day of the last calendar month of the registration year.

(c) A permit may not be issued under this section for the importation of citrus fruit into this state from a foreign country except for foreign export or processing for foreign export.

(d) A person may obtain a permit under this section by:

(1) applying in the manner prescribed by ~~[to]~~ the department;

(2) paying a fee in the amount required by Subsection (e) in the manner prescribed by the department, including a service charge for a credit card payment or escrow account ~~[cash or by postal money order or certified check]~~; and

(3) furnishing evidence of financial responsibility for the motor vehicle that complies with Sections 502.046(c) ~~[502.153(e)]~~ and 601.168(a), the policies to be written by an insurance company or surety company authorized to write motor vehicle liability insurance in this state.

(e) The fee for a permit under this section is the fee that would be required for registering the vehicle under Section 502.253 ~~[502.162]~~ or 502.255 ~~[502.167]~~, except as provided by Subsection (f).

(f) A vehicle registered under this section is exempt from the token fee and is not required to display the associated distinguishing license plate if the vehicle:

(1) is a semitrailer that has a gross weight of more than 6,000 pounds; and

(2) is used or intended to be used in combination with a truck tractor or commercial motor vehicle with a gross vehicle weight ~~[manufacturer's rated carrying capacity]~~ of more than 10,000 pounds ~~[one ton]~~.

(g) A vehicle registered under this section is not subject to the fee required by Section 502.401 ~~[502.172]~~ or 502.403 ~~[502.173]~~.

~~[(h) The department may:~~

~~[(1) adopt rules to administer this section; and~~

~~[(2) prescribe an application for a permit and other forms under this section.~~

~~[(i) A person who violates this section commits an offense. An offense under this section is a misdemeanor punishable by a fine not to exceed \$200.]~~

SECTION 97. Section 502.352, Transportation Code, is transferred to Subchapter C, Chapter 502, Transportation Code, redesignated as Section 502.094, Transportation Code, and amended to read as follows:

Sec. 502.094 ~~[502.352]~~. 72- OR 144-HOUR PERMITS ~~[FOREIGN COMMERCIAL VEHICLES]~~. (a) The department may issue a temporary registration permit in lieu of registration for a commercial motor vehicle, trailer, semitrailer, or motor bus that:

(1) is owned by a resident of the United States, Canada, or the United Mexican States;

(2) is subject to registration in this state; and

(3) is not authorized to travel on a public highway because of the lack of registration in this state or the lack of reciprocity with the state or province in which the vehicle is registered.

(b) A permit issued under this section ~~[-~~

~~[(1) is in lieu of registration; and~~

~~[(2)]~~ is valid for the period stated on the permit, effective from the date and time shown on the receipt issued as evidence of registration under this section.

(c) A person may obtain a permit under this section by:

(1) applying to the county assessor-collector, the department, or the department's wire service agent, if the department has a wire service agent;

(2) paying a fee of \$25 for a 72-hour permit or \$50 for a 144-hour permit in the manner prescribed by the department that may include a service charge for a credit card payment or escrow account~~[-~~

~~[(A) in cash;~~

~~[(B) by postal money order;~~

~~[(C) by certified check;~~

~~[(D) by wire transfer through the department's wire service agent;~~
if any;

~~[(E) by an escrow account; or~~

~~[(F) where the service is provided, by a credit card issued by:~~

~~[(i) a financial institution chartered by a state or the United States; or~~

~~[(ii) a nationally recognized credit organization approved by the board;~~

~~[(3) paying a discount or service charge for a credit card payment or escrow account, in addition to the fee];~~

(3) ~~[(4)]~~ furnishing to the county assessor-collector, the department, or the department's wire service agent, evidence of financial responsibility for the vehicle that complies with Sections 502.046(c) ~~[502.153(e)]~~ and 601.168(a) ~~[and is written by an insurance company or surety company authorized to write motor vehicle liability insurance in this state];~~ and

(4) ~~[(5)]~~ submitting a copy of the applicable federal declaration form required by the Federal Motor Carrier Safety Administration or its successor in connection with the importation of a motor vehicle or motor vehicle equipment subject to the federal motor vehicle safety, bumper, and theft prevention standards.

(d) A county assessor-collector shall report and send a fee collected under this section in the manner provided by Section 502.198 ~~[Sections 502.102 and 502.105]~~. Each week, a wire service agent shall send to the department a report of all permits issued by the agent during the previous week. The board ~~[department]~~ by rule shall prescribe the format ~~[form]~~ and content of a report required by this subsection.

(e) ~~[The department may:~~

~~[(1) adopt rules to administer this section; and~~

~~[(2) prescribe an application for a permit and other forms under this section.~~

~~[(6)]~~ A vehicle issued a permit under this section is subject to Subchapters B and F, Chapter 548, unless the vehicle:

(1) is registered in another state of the United States, in a province of Canada, or in a state of the United Mexican States; or

(2) is mobile drilling or servicing equipment used in the production of gas, crude petroleum, or oil, including a mobile crane or hoisting equipment, mobile lift equipment, forklift, or tug.

(f) ~~[(e)]~~ A commercial motor vehicle, trailer, semitrailer, or motor bus apprehended for violating a registration law of this state:

(1) may not be issued a permit under this section; and

(2) is immediately subject to registration in this state.

(g) ~~[(h)]~~ A person who operates a commercial motor vehicle, trailer, or semitrailer with an expired permit issued under this section is considered to be operating an unregistered vehicle subject to each penalty prescribed by law.

(h) ~~[(i)]~~ The department may establish one or more escrow accounts in the state highway fund for the prepayment of a 72-hour permit or a 144-hour permit. Any fee established by the department for the administration of this subsection shall be administered as required by an agreement entered into by the department.

SECTION 98. Section 502.354, Transportation Code, is transferred to Subchapter C, Chapter 502, Transportation Code, redesignated as Section 502.095, Transportation Code, and amended to read as follows:

Sec. 502.095 ~~[502.354]~~. ONE-TRIP ~~[SINGLE]~~ OR 30-DAY TRIP PERMITS ~~[-OFFENSE]~~. (a) The department may issue a temporary permit in lieu of registration for a vehicle ~~[that~~

~~[(1) is]~~ subject to registration in this state ~~that~~ ~~[-and~~

~~[(2)]~~ is not authorized to travel on a public highway because of the lack of registration in this state or the lack of reciprocity with the state or country in which the vehicle is registered.

(b) A permit issued under this section ~~[-~~

~~[(1) is in lieu of registration; and~~

~~[(2)]~~ is valid for:

(1) ~~[(A)]~~ one trip, as provided by Subsection (c); or

(2) ~~[(B)]~~ 30 days, as provided by Subsection (d).

(c) A one-trip permit is valid for one trip between the points of origin and destination and those intermediate points specified in the application and registration receipt. Unless the vehicle is a bus operating under charter that is not covered by a reciprocity agreement with the state or country in which the bus is registered, a one-trip permit is for the transit of the vehicle only, and the vehicle may not be used for the transportation of any passenger or property. A one-trip permit may not be valid for longer than 15 days from the effective date of registration.

(d) A 30-day permit may be issued only to a passenger vehicle, a private bus, a trailer or semitrailer with a gross weight of not more than 10,000 pounds, a light truck, or a light commercial vehicle with a gross vehicle weight ~~[manufacturer's rated carrying capacity]~~ of more than 10,000 pounds ~~[one ton]~~ that will operate unladen. A person may obtain multiple 30-day permits. The department may issue a single registration receipt to apply to all of the periods for which the vehicle is registered.

(e) A person may obtain a permit under this section by:

(1) applying as on a form ~~[on a form]~~ provided by the department to:

(A) the county assessor-collector of the county in which the vehicle will first be operated on a public highway; or

(B) the department in Austin or at one of the department's vehicle title and registration regional offices;

(2) paying a fee, in the manner prescribed by the department including a registration service charge for a credit card payment or escrow account ~~[cash or by postal money order or certified check,]~~ of:

(A) \$5 for a one-trip permit; or

(B) \$25 for each 30-day period; and

(3) furnishing evidence of financial responsibility for the vehicle in a form listed under Section 502.046(c) ~~[502.153(e)]~~.

(f) A registration receipt ~~[and temporary tag]~~ shall be carried in the vehicle at all times during the period in which it is valid ~~[issued on forms provided by the department]~~. The temporary tag must contain all pertinent information required by this section and must be displayed in the rear window of the vehicle so that the tag is clearly visible and legible when viewed from the rear of the vehicle. If the vehicle does not have a rear window, the temporary tag must be attached on or carried in the vehicle to allow ready inspection. The registration receipt must be carried in the vehicle at all times during the period in which it is valid.

(g) The department may refuse and may instruct a county assessor-collector to refuse to issue a temporary registration for any vehicle if, in the department's opinion, the vehicle or the owner of the vehicle has been involved in operations that constitute an abuse of the privilege granted by this section. A registration issued after notice to a county assessor-collector under this subsection is void.

~~[(h) A person issued a temporary registration under this section who operates a vehicle in violation of Subsection (f) commits an offense. An offense under this subsection is a Class C misdemeanor.]~~

~~[(i) The department may:~~

~~[(1) adopt rules to administer this section; and~~

~~[(2) prescribe an application for a permit and other forms under this section.]~~

SECTION 99. The heading to Subchapter D, Chapter 502, Transportation Code, is amended to read as follows:

SUBCHAPTER D. VEHICLES NOT ISSUED REGISTRATION ~~[PROCEDURES AND FEES]~~

SECTION 100. Section 502.006, Transportation Code, is transferred to Subchapter D, Chapter 502, Transportation Code, redesignated as Section 502.140, Transportation Code, and amended to read as follows:

Sec. 502.140 ~~[502.006]~~. CERTAIN OFF-HIGHWAY VEHICLES. (a) Except as provided by Subsection (b), a person may not register an all-terrain vehicle or a recreational off-highway vehicle, with or without design alterations, for operation on a public highway.

(b) The state, a county, or a municipality may register an all-terrain vehicle or a recreational off-highway vehicle for operation on a public beach or highway to maintain public safety and welfare.

(c) A recreational off-highway vehicle registered as provided by Subsection (b) may be operated on a public or private beach in the same manner as a golf cart may be operated on a public or private beach under Section 551.403 ~~[502.0074]~~. The operator must hold and have in the operator's possession a driver's license issued under Chapter 521 or a commercial driver's license issued under Chapter 522.

(d) Section 504.401 ~~[502.172]~~ does not apply to an all-terrain vehicle or a recreational off-highway vehicle.

(e) Operation of an all-terrain vehicle or recreational off-highway vehicle in compliance with Section 663.037 does not require registration under Subsection (b).

SECTION 101. Section 502.0072, Transportation Code, is transferred to Subchapter D, Chapter 502, Transportation Code, and redesignated as Section 502.142, Transportation Code, to read as follows:

Sec. 502.142 ~~[502.0072]~~. MANUFACTURED HOUSING. Manufactured housing, as defined by Section 1201.003, Occupations Code, is not a vehicle subject to this chapter.

SECTION 102. Section 502.0073, Transportation Code, is transferred to Subchapter D, Chapter 502, Transportation Code, redesignated as Section 502.143, Transportation Code, and amended to read as follows:

Sec. 502.143 ~~[502.0073]~~. OTHER VEHICLES ~~[POWER SWEEPERS]~~. ~~[(a)]~~ An owner may ~~[of a power sweeper is]~~ not ~~[required to]~~ register the following vehicles for operation on a public highway:

- (1) power sweepers;
- (2) motorized mobility devices;
- (3) electric personal assistive mobility devices; and
- (4) electric bicycles [sweeper].

~~[(b) In this section, "power sweeper" means an implement, with or without motive power, designed for the removal by broom, vacuum, or regenerative air system of debris, dirt, gravel, litter, or sand from asphaltic concrete or cement concrete surfaces, including surfaces of parking lots, roads, streets, highways, and warehouse floors. The term includes a vehicle on which the implement is permanently mounted if the vehicle is used only as a power sweeper.]~~

SECTION 103. Section 502.0078, Transportation Code, is transferred to Subchapter D, Chapter 502, Transportation Code, and redesignated as Section 502.144, Transportation Code, to read as follows:

Sec. 502.144 ~~[502.0078]~~. VEHICLES OPERATED ON PUBLIC HIGHWAY SEPARATING REAL PROPERTY UNDER VEHICLE OWNER'S CONTROL. Where a public highway separates real property under the control of the owner of a motor vehicle, the operation of the motor vehicle by the owner or the owner's agent or employee across the highway is not a use of the motor vehicle on the public highway.

SECTION 104. Section 502.0079, Transportation Code, is transferred to Subchapter D, Chapter 502, Transportation Code, redesignated as Section 502.145, Transportation Code, and amended to read as follows:

Sec. 502.145 ~~[502.0079]~~. VEHICLES OPERATED BY CERTAIN NONRESIDENTS. (a) ~~[A nonresident owner of a motor vehicle, trailer, or semitrailer that is registered in the state or country in which the person resides may operate the vehicle to transport persons or property for compensation without being registered in this state, if the person does not exceed two trips in a calendar month and each trip does not exceed four days.~~

~~[(b) A nonresident owner of a privately owned vehicle that is not registered in this state may not make more than five occasional trips in any calendar month into this state using the vehicle. Each occasional trip into this state may not exceed five days.~~

~~[(c)]~~ A nonresident owner of a privately owned passenger car that is registered in the state or country in which the person resides and that is not operated for compensation may operate the car in this state for the period in which the car's license plates are valid. In this subsection, "nonresident" means a resident of a state or country other than this state whose presence in this state is as a visitor and who does not engage in gainful employment or enter into business or an occupation, except as may otherwise be provided by any reciprocal agreement with another state or country.

~~(b)~~ ~~[(d)]~~ This section does not prevent:

(1) a nonresident owner of a motor vehicle from operating the vehicle in this state for the sole purpose of marketing farm products raised exclusively by the person; or

(2) a resident of an adjoining state or country from operating in this state a privately owned and registered vehicle to go to and from the person's place of regular employment and to make trips to purchase merchandise, if the vehicle is not operated for compensation.

~~(c)~~ ~~[(e)]~~ The privileges provided by this section may be allowed only if, under the laws of the appropriate state or country, similar privileges are granted to vehicles registered under the laws of this state and owned by residents of this state.

~~(d)~~ ~~[(f)]~~ This section does not affect the right or status of a vehicle owner under any reciprocal agreement between this state and another state or country.

SECTION 105. Section 504.504, Transportation Code, is transferred to Subchapter D, Chapter 502, Transportation Code, redesignated as Section 502.146, Transportation Code, and amended to read as follows:

Sec. 502.146 ~~[504.504]~~. CERTAIN FARM VEHICLES AND DRILLING AND CONSTRUCTION EQUIPMENT. (a) The department shall issue specialty license plates to a vehicle described by Subsection (b) or (c). The fee for the license plates is \$5.

(b) An owner is not required to register a vehicle that is used only temporarily on the highways if the vehicle is:

(1) a farm trailer or farm semitrailer with a gross weight of more than 4,000 pounds but not more than 34,000 pounds that is used exclusively to transport:

(A) seasonally harvested agricultural products or livestock from the place of production to the place of processing, market, or storage; or

(B) farm supplies from the place of loading to the farm;
(2) machinery used exclusively for the purpose of drilling water wells;
[or]

(3) oil well servicing or drilling machinery and if at the time of obtaining the license plates, the applicant submits proof that the applicant has a permit under Section 623.142; or

(4) construction machinery [that is not designed to transport persons or property on a public highway].

(c) An owner is not required to register a vehicle that is:

(1) a farm trailer or farm semitrailer owned by a cotton gin and used exclusively to transport agricultural products without charge from the place of production to the place of processing, market, or storage;

(2) a trailer used exclusively to transport fertilizer without charge from a place of supply or storage to a farm; or

(3) a trailer used exclusively to transport cottonseed without charge from a place of supply or storage to a farm or place of processing.

(d) A vehicle described by Subsection (b) is exempt from the inspection requirements of Subchapters B and F, Chapter 548.

(e) This section does not apply to a farm trailer or farm semitrailer that:

(1) is used for hire;

(2) has metal tires operating in contact with the highway;

(3) is not equipped with an adequate hitch pinned or locked so that it will remain securely engaged to the towing vehicle while in motion; or

(4) is not operated and equipped in compliance with all other law.

(f) A vehicle to which this section applies that is operated on a public highway in violation of this section is considered to be operated while unregistered and is immediately subject to the applicable registration fees and penalties prescribed by this chapter [~~Chapter 502~~].

(g) In this section, the gross weight of a trailer or semitrailer is the combined weight of the vehicle and the load carried on the highway.

SECTION 106. The heading to Subchapter E, Chapter 502, Transportation Code, is amended to read as follows:

SUBCHAPTER E. ADMINISTRATION OF FEES [~~SPECIALLY DESIGNATED LICENSE PLATES; EXEMPTIONS FOR GOVERNMENTAL AND QUASI-GOVERNMENTAL VEHICLES~~]

SECTION 107. Section 502.159, Transportation Code, is transferred to Subchapter E, Chapter 502, Transportation Code, redesignated as Section 502.190, Transportation Code, and amended to read as follows:

Sec. 502.190 [~~502.159~~]. **SCHEDULE OF REGISTRATION FEES.** The department shall post [~~compile and furnish to each county assessor-collector~~] a complete schedule of registration fees on the Internet [~~to be collected on the various makes, models, and types of vehicles~~].

SECTION 108. Section 502.004, Transportation Code, is transferred to Subchapter E, Chapter 502, Transportation Code, redesignated as Section 502.191, Transportation Code, and amended to read as follows:

Sec. 502.191 ~~[502.004]~~. COLLECTION OF FEES. (a) A person may not collect a registration fee under this chapter unless the person is:

- (1) an officer or employee of the department; or
- (2) a county assessor-collector or a deputy county assessor-collector.

(b) The department may accept electronic payment by electronic funds transfer, credit card, or debit card of any fee that the department is authorized to collect under this chapter.

(c) The department may collect a fee for processing a payment by electronic funds transfer, credit card, or debit card in an amount not to exceed the amount of the charges incurred by the department to process the payment.

(d) The department may collect the fee set under Section 2054.2591, Government Code, from a person making a payment by electronic funds transfer, credit card, or debit card through the online project implemented under Section 2054.252, Government Code.

(e) If, for any reason, the payment of a fee under this chapter by electronic funds transfer, credit card, or debit card is not honored by the funding institution or by the electronic funds transfer, credit card, or debit card company on which the funds are drawn, the department may collect from the person who owes the fee being collected a service charge that is for the collection of that original amount and is in addition to the original fee. The amount of the service charge must be reasonably related to the expense incurred by the department in collecting the original amount.

SECTION 109. Subchapter E, Chapter 502, Transportation Code, is amended by adding Section 502.192 to read as follows:

Sec. 502.192. TRANSFER FEE. The purchaser of a used motor vehicle shall pay, in addition to any fee required under Chapter 501 for the transfer of title, a transfer fee of \$2.50 for the transfer of the registration of the motor vehicle. The county assessor-collector may retain as commission for services provided under this subchapter half of each transfer fee collected.

SECTION 110. Section 502.181, Transportation Code, is transferred to Subchapter E, Chapter 502, Transportation Code, redesignated as Section 502.193, Transportation Code, and amended to read as follows:

Sec. 502.193 ~~[502.181]~~. PAYMENT ~~[OF REGISTRATION FEE]~~ BY CHECK DRAWN AGAINST INSUFFICIENT FUNDS. (a) A county assessor-collector who receives from any person a check or draft for ~~[drawn on a bank or trust company in]~~ payment of a registration fee for a registration year that has not ended ~~[on a motor vehicle, trailer, or motorcycle sidecar]~~ that is returned unpaid because of insufficient funds or no funds in the bank or trust company to the credit of the drawer of the check or draft shall certify the fact to the sheriff or a constable or highway patrol officer in the county after attempts to contact the person fail to result in the collection of payment. The certification must be made before the 30th day after the date the check or draft is returned unpaid and:

- (1) be under the assessor-collector's official seal;
- (2) include the name and address of the person who gave the ~~[assessor-collector the]~~ check or draft;
- (3) include the license plate number and make of the vehicle;

(4) be accompanied by the check or draft; and

(5) be accompanied by documentation of any attempt to contact the person and collect payment.

(b) On receiving a complaint under Subsection (a) from the county assessor-collector, the sheriff, constable, or highway patrol officer shall find the person who gave the ~~[assessor-collector the]~~ check or draft, if the person is in the county, and demand immediate redemption of the check or draft from the person. If the person fails or refuses to redeem the check or draft, the sheriff, constable, or highway patrol officer shall:

(1) seize and remove the license plates and registration insignia from the vehicle; and

(2) return the license plates and registration insignia to the county assessor-collector.

SECTION 111. Section 502.182, Transportation Code, is transferred to Subchapter E, Chapter 502, Transportation Code, redesignated as Section 502.194, Transportation Code, and amended to read as follows:

Sec. 502.194 ~~[502.182]~~. CREDIT FOR REGISTRATION FEE PAID ON MOTOR VEHICLE SUBSEQUENTLY DESTROYED. (a) The owner of a motor vehicle that is destroyed to the extent that it cannot afterwards be operated on a public highway is entitled to a registration fee credit if the prorated portion of the registration fee for the remainder of the registration year is more than \$15. The owner must claim the credit by ~~[-~~

~~[(1)]~~ sending the registration fee receipt ~~[and the license plates]~~ for the vehicle to the department ~~[-and~~

~~[(2)]~~ ~~executing a statement on a form provided by the department showing that the license plates have been surrendered to the department].~~

(b) The department, on satisfactory proof that the vehicle is destroyed, shall issue a registration fee credit slip to the owner in an amount equal to the prorated portion of the registration fee for the remainder of the registration year. The owner, during the same or the next registration year, may use the registration fee credit slip as payment or part payment for the registration of another vehicle to the extent of the credit.

~~[(c)]~~ ~~A statement executed under Subsection (a)(2) shall be delivered to a purchaser of the destroyed vehicle. The purchaser may surrender the statement to the department in lieu of the vehicle license plates.~~

~~[(d)]~~ ~~The department shall adopt rules to administer this section.]~~

SECTION 112. Section 502.183, Transportation Code, is transferred to Subchapter E, Chapter 502, Transportation Code, redesignated as Section 502.195, Transportation Code, and amended to read as follows:

Sec. 502.195 ~~[502.183]~~. REFUND OF OVERCHARGED REGISTRATION FEE. (a) The owner of a motor vehicle ~~[that is required to be registered]~~ who pays an annual registration fee in excess of the statutory amount is entitled to a refund of the overcharge.

(b) The county assessor-collector who collects the excessive fee shall refund an overcharge on presentation to the assessor-collector of satisfactory evidence of the overcharge[~~-. The owner must make a claim for a refund of an overcharge~~] not later than the first [~~fifth~~] anniversary of the date the excessive registration fee was paid.

(c) A refund shall be paid from the fund in which the county's share of registration fees is deposited.

SECTION 113. Section 502.051, Transportation Code, is transferred to Subchapter E, Chapter 502, Transportation Code, and redesignated as Section 502.196, Transportation Code, to read as follows:

Sec. 502.196 [~~502.051~~]. DEPOSIT OF REGISTRATION FEES IN STATE HIGHWAY FUND. Except as otherwise provided by this chapter, the board and the department shall deposit all money received from registration fees in the state treasury to the credit of the state highway fund.

SECTION 114. Section 502.101, Transportation Code, is transferred to Subchapter E, Chapter 502, Transportation Code, and redesignated as Section 502.197, Transportation Code, to read as follows:

Sec. 502.197 [~~502.101~~]. REGISTRATION BY MAIL OR ELECTRONIC MEANS; SERVICE CHARGE. (a) A county assessor-collector may collect a service charge of \$1 from each applicant registering a vehicle by mail. The service charge shall be used to pay the costs of handling and postage to mail the registration receipt and insignia to the applicant.

(b) With the approval of the commissioners court of a county, a county assessor-collector may contract with a private entity to enable an applicant for registration to use an electronic off-premises location. A private entity may charge an applicant not more than \$1 for the service provided.

(c) The department may adopt rules to cover the timely application for and issuance of registration receipts and insignia by mail or through an electronic off-premises location.

SECTION 115. Section 502.102, Transportation Code, is transferred to Subchapter E, Chapter 502, Transportation Code, redesignated as Section 502.198, Transportation Code, and amended to read as follows:

Sec. 502.198 [~~502.102~~]. DISPOSITION OF FEES GENERALLY. (a) Except as provided by Sections 502.1982 [~~502.103~~] and 502.357 [~~502.104~~], this section applies to all fees collected by a county assessor-collector under this chapter.

(b) Each Monday, a county assessor-collector shall credit to the county road and bridge fund an amount equal to the net collections made during the preceding week until the amount so credited for the calendar year equals the total of:

(1) \$60,000;

(2) \$350 for each mile of county road maintained by the county, according to the most recent information available from the department, not to exceed 500 miles; and

(3) an additional amount of fees equal to the amount calculated under Section 502.1981 [~~502.1025~~].

(c) After the credits to the county road and bridge fund equal the total computed under Subsection (b), each Monday the county assessor-collector shall:

(1) credit to the county road and bridge fund an amount equal to 50 percent of the net collections made during the preceding week, until the amount so credited for the calendar year equals \$125,000; and

(2) send to the department an amount equal to 50 percent of those collections.

(d) After the credits to the county road and bridge fund equal the total amounts computed under Subsections (b) and (c)(1), each Monday the county assessor-collector shall send to the department all collections made during the preceding week.

~~[(e) Each Monday the county assessor-collector shall send to the department a copy of each receipt issued the previous week for a registration fee under this chapter.]~~

SECTION 116. Section 502.1025, Transportation Code, is transferred to Subchapter E, Chapter 502, Transportation Code, redesignated as Section 502.1981, Transportation Code, and amended to read as follows:

Sec. 502.1981 ~~[502.1025]~~. CALCULATION OF ADDITIONAL FEE AMOUNTS RETAINED BY A COUNTY. (a) The county tax assessor-collector each calendar year shall calculate five percent of the tax and penalties collected by the county tax assessor-collector under Chapter 152, Tax Code, in the preceding calendar year. In addition, the county tax assessor-collector shall calculate each calendar year an amount equal to five percent of the tax and penalties that the comptroller:

(1) collected under Section 152.047, Tax Code, in the preceding calendar year; and

(2) determines are attributable to sales in the county.

(b) A county tax assessor-collector shall retain under Section ~~502.198(b)~~ ~~[502.102(b)]~~ fees based on the following percentage of the amounts calculated under Subsection ~~[subsection]~~ (a) during each of the following fiscal years:

~~(1) [in fiscal year 2006, 90 percent;~~

~~(2) in fiscal year 2007, 80 percent;~~

~~(3) in fiscal year 2008, 70 percent;~~

~~(4) in fiscal year 2009, 60 percent;~~

~~(5) in fiscal year 2010, 50 percent;~~

~~(6) in fiscal year 2011, 40 percent;~~

~~(7) in fiscal year 2012, 30 percent;~~

~~(2) [(8)] in fiscal year 2013, 20 percent;~~

~~(3) [(9)] in fiscal year 2014, 10 percent;~~

~~(4) [(10)] in fiscal year 2015 and succeeding years, 0 percent.~~

(c) The county shall credit the amounts retained under Subsection (b) to the county road and bridge fund. Money credited to the fund under this section may only be used for:

(1) county road construction, maintenance, and repair;

(2) bridge construction, maintenance, and repair;

(3) the purchase of right-of-way for road or highway purposes; or

(4) the relocation of utilities for road or highway purposes.

SECTION 117. Section 502.103, Transportation Code, is transferred to Subchapter E, Chapter 502, Transportation Code, redesignated as Section 502.1982, Transportation Code, and amended to read as follows:

Sec. 502.1982 [~~502.103~~]. DISPOSITION OF OPTIONAL COUNTY ROAD AND BRIDGE FEE. Each Monday a county assessor-collector shall apportion the collections for the preceding week for a fee imposed under Section 502.401 [~~502.172~~] by:

(1) crediting an amount equal to 97 percent of the collections to the county road and bridge fund; and

(2) sending to the department an amount equal to three percent of the collections to defray the department's costs of administering Section 502.401 [~~502.172~~].

SECTION 118. Section 502.106, Transportation Code, is transferred to Subchapter E, Chapter 502, Transportation Code, redesignated as Section 502.1983, Transportation Code, and amended to read as follows:

Sec. 502.1983 [~~502.106~~]. DEPOSIT OF FEES IN INTEREST-BEARING ACCOUNT. (a) Except as provided by Sections 502.1982 [~~502.103~~] and 502.357 [~~502.104~~], a county assessor-collector may:

(1) deposit the fees in an interest-bearing account or certificate in the county depository; and

(2) send the fees to the department not later than the 34th day after the date the fees are due under Section 502.357 [~~502.104~~].

(b) The county owns all interest earned on fees deposited under this section. The county treasurer shall credit the interest to the county general fund.

SECTION 119. Section 502.107, Transportation Code, is transferred to Subchapter E, Chapter 502, Transportation Code, and redesignated as Section 502.1984, Transportation Code, to read as follows:

Sec. 502.1984 [~~502.107~~]. INTEREST ON FEES. (a) A fee required to be sent to the department under this chapter bears interest for the benefit of the state highway fund at an annual rate of 10 percent beginning on the 60th day after the date the county assessor-collector collects the fee.

(b) The department shall audit the registration and transfer fees collected and disbursed by each county assessor-collector and shall determine the exact amount of interest due on any fee not sent to the department.

(c) The state has a claim against a county assessor-collector and the sureties on the assessor-collector's official bond for the amount of interest due on a fee.

SECTION 120. Section 502.108, Transportation Code, is transferred to Subchapter E, Chapter 502, Transportation Code, redesignated as Section 502.1985, Transportation Code, and amended to read as follows:

Sec. 502.1985 [~~502.108~~]. USE OF REGISTRATION FEES RETAINED BY COUNTY. (a) Money credited to the county road and bridge fund under Section 502.198 [~~502.102~~] or 502.1982 [~~502.103~~] may not be used to pay the compensation of the county judge or a county commissioner. The money may be used only for the construction and maintenance of lateral roads in the county, under the supervision of the county engineer.

(b) If there is not a county engineer, the commissioners court of the county may require the services of the department's district engineer or resident engineer to supervise the construction and surveying of lateral roads in the county.

(c) A county may use money allocated to it under this chapter to:

(1) pay obligations issued in the construction or improvement of any roads, including state highways in the county;

(2) improve the roads in the county road system; or

(3) construct new roads.

(d) To the maximum extent possible, contracts for roads constructed by a county using funds provided under this chapter should be awarded by competitive bids.

SECTION 121. Section 502.110, Transportation Code, is transferred to Subchapter E, Chapter 502, Transportation Code, and redesignated as Section 502.1986, Transportation Code, to read as follows:

Sec. 502.1986 [~~502.110~~]. CONTINGENT PROVISION FOR DISTRIBUTION OF FEES BETWEEN STATE AND COUNTIES. If the method of distributing vehicle registration fees collected under this chapter between the state and counties is declared invalid because of inequality of collection or distribution of those fees, 60 percent of each fee shall be distributed to the county collecting the fee and 40 percent shall be sent to the state in the manner provided by this chapter.

SECTION 122. The heading to Subchapter F, Chapter 502, Transportation Code, is amended to read as follows:

SUBCHAPTER F. REGULAR REGISTRATION FEES [~~SPECIALIZED LICENSE PLATES; EXEMPTIONS FOR PRIVATELY OWNED VEHICLES~~]

SECTION 123. Section 502.160, Transportation Code, as effective September 1, 2011, is transferred to Subchapter F, Chapter 502, Transportation Code, and redesignated as Section 502.251, Transportation Code, to read as follows:

Sec. 502.251 [~~502.160~~]. FEE: MOTORCYCLE OR MOPED. The fee for a registration year for registration of a motorcycle or moped is \$30.

SECTION 124. Section 502.161, Transportation Code, as effective September 1, 2011, is transferred to Subchapter F, Chapter 502, Transportation Code, redesignated as Section 502.252, Transportation Code, and amended to read as follows:

Sec. 502.252 [~~502.161~~]. FEE: VEHICLES THAT WEIGH 6,000 POUNDS OR LESS. (a) The fee for a registration year for registration of a vehicle with a gross weight of 6,000 pounds or less is \$50.75, unless otherwise provided in this chapter.

(b) [~~(c)~~] For registration purposes, the weight of a passenger car, a municipal bus, or a private bus is the weight generally accepted as its correct shipping weight plus 100 pounds.

[~~(d) In this section, "private bus" has the meaning assigned by Section 502.294.~~]

SECTION 125. Section 502.162, Transportation Code, as effective September 1, 2011, is transferred to Subchapter F, Chapter 502, Transportation Code, redesignated as Section 502.253, Transportation Code, and amended to read as follows:

Sec. 502.253 ~~[502.162]~~. FEE: VEHICLES THAT WEIGH MORE THAN 6,000 POUNDS. ~~[(a)]~~ The fee for a registration year for registration of a vehicle with a gross weight of more than 6,000 pounds is as follows unless otherwise provided in this chapter:

Weight Classification in pounds	Fee Schedule
6,001-10,000	\$54.00
10,001-18,000	\$110.00
18,001-25,999	\$205.00
26,000-40,000	\$340.00
40,001-54,999	\$535.00
55,000-70,000	\$740.00
70,001-80,000	\$840.00

~~[(b) The gross weight of a vehicle is the actual weight of the vehicle, fully equipped with a body and other equipment, as certified by a public weigher or a license and weight inspector of the Department of Public Safety, plus its net carrying capacity.~~

~~[(c) The net carrying capacity of a vehicle other than a bus is the heaviest net load to be carried on the vehicle, but not less than the manufacturer's rated carrying capacity.~~

~~[(d) The net carrying capacity of a bus is computed by multiplying its seating capacity by 150 pounds. The seating capacity of a bus is:~~

~~[(1) the manufacturer's rated seating capacity, excluding the operator's seat; or~~

~~[(2) if the manufacturer has not rated the vehicle for seating capacity, a number computed by allowing one passenger for each 16 inches of seating on the bus, excluding the operator's seat.]~~

SECTION 126. Section 502.166, Transportation Code, as effective September 1, 2011, is transferred to Subchapter F, Chapter 502, Transportation Code, redesignated as Section 502.254, Transportation Code, and amended to read as follows:

Sec. 502.254 ~~[502.166]~~. FEE: TRAILER, TRAVEL TRAILER, OR SEMITRAILER. (a) The fee for a registration year for registration of a trailer, travel trailer, or semitrailer with a gross weight of 6,000 pounds or less is \$45.00.

(b) ~~[(a-1)]~~ The fee for a registration year for registration of a trailer, travel trailer, or semitrailer with a gross weight of more than 6,000 pounds is calculated by gross weight according to Section 502.253 ~~[502.162]~~.

~~[(b) The gross weight of a trailer or semitrailer is the actual weight of the vehicle, as certified by a public weigher or a license and weight inspector of the Department of Public Safety, plus its net carrying capacity.~~

~~[(e) The net carrying capacity of a vehicle is the heaviest net load to be carried on the vehicle, but not less than the manufacturer's rated carrying capacity.]~~

~~[(d) The department may issue specially designed license plates for rental trailers and travel trailers that include, as appropriate, the words "rental trailer" or "travel trailer."]~~

~~[(e) In this section:~~

~~[(1) "Rental fleet" means five or more vehicles that are:~~

~~[(A) owned by the same owner;~~

~~[(B) offered for rent or rented without drivers; and~~

~~[(C) designated by the owner in the manner prescribed by the department as a rental fleet.]~~

~~[(2) "Rental trailer" means a utility trailer that:~~

~~[(A) has a gross weight of 4,000 pounds or less; and~~

~~[(B) is part of a rental fleet.]~~

~~[(3) "Travel trailer" means a house trailer type vehicle or a camper trailer that is:~~

~~[(A) less than eight feet in width or 40 feet in length, exclusive of any hitch installed on the vehicle; and~~

~~[(B) designed primarily for use as temporary living quarters in connection with recreational, camping, travel, or seasonal use and not as a permanent dwelling; provided that "travel trailer" shall not include a utility trailer, enclosed trailer, or other trailer not having human habitation as its primary purpose.]~~

SECTION 127. Section 502.167, Transportation Code, as effective September 1, 2011, is transferred to Subchapter F, Chapter 502, Transportation Code, redesignated as Section 502.255, Transportation Code, and amended to read as follows:

Sec. 502.255 ~~[502.167]~~. TRUCK-TRACTOR OR COMMERCIAL MOTOR VEHICLE COMBINATION FEE; SEMITRAILER TOKEN FEE. (a) This section applies only to a truck-tractor or commercial motor vehicle with a gross weight of more than 10,000 pounds that is used or is to be used in combination with a semitrailer that has a gross weight of more than 6,000 pounds.

(b) The fee for a registration year for registration of a truck-tractor or commercial motor vehicle is calculated by gross weight according to Section ~~502.253~~ ~~[502.162]~~.

(c) The fee for a registration year for registration of a semitrailer used in the manner described by Subsection (a), regardless of the date the semitrailer is registered, is:

(1) \$30, for a semitrailer being propelled by a power unit for which a permit under Section 623.011 has been issued; or

(2) \$15, for a semitrailer being propelled by a power unit for which a permit under Section 623.011 has not been issued.

(d) A registration made under Subsection (c) is valid only when the semitrailer is used in the manner described by Subsection (a).

(e) For registration purposes, a semitrailer converted to a trailer by means of an auxiliary axle assembly retains its status as a semitrailer.

(f) A combination of vehicles may not be registered under this section for a combined gross weight of less than 18,000 pounds.

(g) This section does not apply to:

(1) a combination of vehicles that includes a vehicle that has a distinguishing license plate under Section 502.146 ~~[504.504]~~;

(2) a truck-tractor or commercial motor vehicle registered or to be registered with \$5 distinguishing license plates for which the vehicle is eligible under this chapter;

(3) a truck-tractor or commercial motor vehicle used exclusively in combination with a semitrailer of the travel trailer ~~[house trailer]~~ type; or

(4) a vehicle registered or to be registered:

(A) with a temporary registration permit;

(B) under Section 502.433 ~~[502.163]~~; or

(C) under Section 502.435 ~~[502.188]~~.

(h) The department may adopt rules to administer this section.

(i) The department may issue specially designed license plates for token trailers.

(j) A person may register a semitrailer under this section ~~[for a registration period of five consecutive years]~~ if the person:

(1) applies to the department for ~~[the five year]~~ registration;

(2) provides proof of the person's eligibility to register the vehicle under this subsection as required by the department; and

(3) pays a fee of \$15, plus any applicable fee under Section 502.401 ~~[502.172]~~, for each year included in the registration period.

~~[(k) If during the five year registration period for a vehicle registered under Subsection (j) the amount of a fee imposed under that subsection is increased, the owner of the vehicle is liable to the department for the amount of the increase. If the amount of a fee is decreased, the owner of the vehicle is not entitled to a refund.]~~

~~[(l) In this section:~~

~~[(1) "Combined gross weight" means the empty weight of the truck tractor or commercial motor vehicle combined with the empty weight of the heaviest semitrailer used or to be used in combination with the truck tractor or commercial motor vehicle plus the heaviest net load to be carried on the combination during the registration year.~~

~~[(2) "Empty weight" means the unladen weight of the truck tractor or commercial motor vehicle and semitrailer combination fully equipped, as certified by a public weigher or license and weight inspector of the Department of Public Safety.~~

~~[(3) "Token trailer" means a semitrailer that:~~

~~[(A) has a gross weight of more than 6,000 pounds; and~~

~~[(B) is operated in combination with a truck or a truck tractor that has been issued:~~

~~[(i) an apportioned license plate;~~

- ~~[(ii) a combination license plate; or~~
- ~~[(iii) a forestry vehicle license plate.~~

~~[(4) "Apportioned license plate" means a license plate issued in lieu of truck license plates or combination license plates to a motor carrier in this state who proportionally registers a vehicle owned by the carrier in one or more other states.~~

~~[(5) "Combination license plate" means a license plate issued for a truck or truck tractor that:~~

~~[(A) has a manufacturer's rated carrying capacity of more than one ton; and~~

~~[(B) is used or intended to be used in combination with a semitrailer that has a gross weight of more than 6,000 pounds.]~~

SECTION 128. Section 502.165, Transportation Code, as effective September 1, 2011, is transferred to Subchapter F, Chapter 502, Transportation Code, redesignated as Section 502.256, Transportation Code, and amended to read as follows:

Sec. 502.256 ~~[502.165]~~. FEE: ROAD TRACTOR. The fee for a registration year for registration of a road tractor is the fee prescribed by weight as certified by a public weigher or a license and weight inspector of the Department of Public Safety under Section 502.252 ~~[502.164]~~ or 502.253 ~~[502.162]~~, as applicable.

SECTION 129. The heading to Subchapter G, Chapter 502, Transportation Code, is amended to read as follows:

SUBCHAPTER G. ADDITIONAL FEES ~~[TEMPORARY REGISTRATION]~~

SECTION 130. Section 502.1705, Transportation Code, as effective September 1, 2011, is transferred to Subchapter G, Chapter 502, Transportation Code, redesignated as Section 502.356, Transportation Code, and amended to read as follows:

Sec. 502.356 ~~[502.1705]~~. ~~[ADDITIONAL FEE FOR]~~ AUTOMATED REGISTRATION AND TITLING ~~[TITLE]~~ SYSTEM. (a) In addition to other registration fees for a license plate or set of license plates or other device used as the registration insignia, a fee of \$1 shall be collected.

(b) The department may use money collected under this section to provide for or enhance:

- (1) automated on-premises and off-premises registration; and
- (2) services related to the titling of vehicles.

SECTION 131. Section 502.1715, Transportation Code, as amended by Chapters 892 (**SB 1670**) and 1108 (**HB 2337**), Acts of the 79th Legislature, Regular Session, 2005, is transferred to Subchapter G, Chapter 502, Transportation Code, redesignated as Section 502.357, Transportation Code, and reenacted and amended to read as follows:

Sec. 502.357 ~~[502.1715]~~. FINANCIAL RESPONSIBILITY ~~[ADDITIONAL FEE FOR CERTAIN DEPARTMENT]~~ PROGRAMS. (a) In addition to other fees imposed for registration of a motor vehicle, at the time of application for registration or renewal of registration of a motor vehicle for which the owner is required to submit evidence of financial responsibility under Section 502.046 ~~[502.153]~~, the applicant shall pay a fee of \$1. In addition to other fees

imposed for registration of a motor vehicle, at the time of application for registration of a motor vehicle that is subject to Section 501.0234, the applicant shall pay a fee of \$1. Fees collected under this section shall be remitted weekly to the department.

(b) Fees collected under this section shall be deposited to the credit of the state highway fund. Subject to appropriations, the money shall be used by the Department of Public Safety to:

(1) support the Department of Public Safety's reengineering of the driver's license system to provide for the issuance by the Department of Public Safety of a driver's license or personal identification certificate, to include use of image comparison technology;

(2) establish and maintain a system to support the driver responsibility program under Chapter 708; and

(3) make lease payments to the master lease purchase program for the financing of the driver's license reengineering project.

(c) Fees collected under this section shall be deposited to the credit of the state highway fund. Subject to appropriation, the money may be used by the Department of Public Safety, the Texas Department of Insurance, the Department of Information Resources, and the department to carry out Subchapter N, Chapter 601.

(d) The Department of Public Safety, the Texas Department of Insurance, the Department of Information Resources, and the department shall jointly adopt rules and develop forms necessary to administer this section.

SECTION 132. Section 502.1675, Transportation Code, is transferred to Subchapter G, Chapter 502, Transportation Code, redesignated as Section 502.358, Transportation Code, and amended to read as follows:

Sec. 502.358 ~~[502.1675]~~. TEXAS EMISSIONS REDUCTION PLAN SURCHARGE. (a) In addition to the registration fees charged under Section 502.255 ~~[502.167]~~, a surcharge is imposed on the registration of a truck-tractor or commercial motor vehicle under that section in an amount equal to 10 percent of the total fees due for the registration of the truck-tractor or commercial motor vehicle under that section.

(b) The county tax assessor-collector shall remit the surcharge collected under this section to the comptroller at the time and in the manner prescribed by the comptroller for deposit in the Texas emissions reduction plan fund.

(c) This section expires August 31, 2019.

SECTION 133. Section 502.171, Transportation Code, is transferred to Subchapter G, Chapter 502, Transportation Code, redesignated as Section 502.359, Transportation Code, and amended to read as follows:

Sec. 502.359 ~~[502.171]~~. ADDITIONAL FEE FOR CERTAIN VEHICLES USING DIESEL MOTOR. (a) The registration fee under this chapter for a motor vehicle other than a passenger car, a truck with a gross vehicle weight ~~[manufacturer's rated carrying capacity]~~ of 18,000 pounds ~~[two tons]~~ or less, or a vehicle registered in combination under Section 502.255 ~~[502.167]~~ is increased by 11 percent if the vehicle has a diesel motor.

(b) The ~~[A county assessor-collector shall show on the]~~ registration receipt for a motor vehicle, other than a passenger car or a truck with a gross vehicle weight ~~[manufacturer's rated carrying capacity]~~ of 18,000 pounds ~~[two tons]~~ or less, must show that the vehicle has a diesel motor.

(c) The department may adopt rules to administer this section.

SECTION 134. The heading to Subchapter H, Chapter 502, Transportation Code, is amended to read as follows:

SUBCHAPTER H. OPTIONAL FEES ~~[OFFENSES AND PENALTIES]~~

SECTION 135. Section 502.172, Transportation Code, is transferred to Subchapter H, Chapter 502, Transportation Code, redesignated as Section 502.401, Transportation Code, and amended to read as follows:

Sec. 502.401 ~~[502.172]~~. **OPTIONAL COUNTY FEE FOR ROAD AND BRIDGE FUND.** (a) The commissioners court of a county by order may impose an additional fee, not to exceed \$10, for registering a vehicle in the county.

(b) A vehicle that may be registered under this chapter without payment of a registration fee may be registered in a county imposing a fee under this section without payment of the additional fee.

(c) A fee imposed under this section may take effect only on January 1 of a year. The county must adopt the order and notify the department not later than September 1 of the year preceding the year in which the fee takes effect.

(d) A fee imposed under this section may be removed. The removal may take effect only on January 1 of a year. A county may remove the fee only by:

(1) rescinding the order imposing the fee; and

(2) notifying the department not later than September 1 of the year preceding the year in which the removal takes effect.

(e) The county assessor-collector of a county imposing a fee under this section shall collect the additional fee for a vehicle when other fees imposed under this chapter are collected.

(f) The department shall collect the additional fee on a vehicle that is owned by a resident of a county imposing a fee under this section ~~[and] that~~, ~~[under this chapter,~~ must be registered directly with the department. The department shall send all fees collected for a county under this subsection to the county treasurer to be credited to the county road and bridge fund.

(g) The department shall adopt rules ~~[and develop forms]~~ necessary to administer registration ~~[by mail]~~ for a vehicle being registered in a county imposing a fee under this section.

SECTION 136. Section 502.1725, Transportation Code, is transferred to Subchapter H, Chapter 502, Transportation Code, redesignated as Section 502.402, Transportation Code, and amended to read as follows:

Sec. 502.402 ~~[502.1725]~~. **OPTIONAL COUNTY FEE FOR TRANSPORTATION PROJECTS.** (a) This section applies only to a county:

(1) that borders the United Mexican States;

(2) that has a population of more than 300,000; and

(3) in which the largest municipality has a population of less than 300,000.

(b) The commissioners court of a county by order may impose an additional fee, not to exceed \$10, for ~~[registering]~~ a vehicle registered in the county.

(c) A vehicle that may be registered under this chapter without payment of a registration fee may be registered ~~[in a county imposing a fee]~~ under this section without payment of the additional fee.

(d) A fee imposed under this section may take effect ~~[only on January 1 of a year. The county must adopt the order]~~ and ~~[notify the department not later than September 1 of the year preceding the year in which the fee takes effect]~~.

~~[(e) A fee imposed under this section may] be removed in accordance with the requirements of Section 502.401[. The removal may take effect only on January 1 of a year. A county may remove the fee only by:~~

~~[(1) rescinding the order imposing the fee; and~~

~~[(2) notifying the department not later than September 1 of the year preceding the year in which the removal takes effect].~~

~~(e) [(f)] The [county assessor collector of a county imposing a fee under this section shall collect the] additional fee shall be collected for a vehicle when other fees imposed under this chapter are collected. The [county shall send the] fee revenue collected shall be sent to the regional mobility authority of the county to fund long-term transportation projects in the county.~~

~~(f) [(g) The department shall collect the additional fee on a vehicle that is owned by a resident of a county imposing a fee under this section and that, under this chapter, must be registered directly with the department. The department shall send all fees collected for a county under this subsection to the regional mobility authority of the county to fund long term transportation projects in the county.]~~

~~[(h)] The department shall adopt rules [and develop forms] necessary to administer registration [by mail] for a vehicle being registered in a county imposing a fee under this section.~~

SECTION 137. Section 502.173, Transportation Code, is transferred to Subchapter H, Chapter 502, Transportation Code, redesignated as Section 502.403, Transportation Code, and amended to read as follows:

Sec. 502.403 ~~[502.173]~~. OPTIONAL COUNTY FEE FOR CHILD SAFETY. (a) The commissioners court of a county that has a population greater than 1.3 million and in which a municipality with a population of more than one million is primarily located may impose by order an additional fee of not less than 50 cents or more than \$1.50 for ~~[registering]~~ a vehicle registered in the county. The commissioners court of any other county may impose by order an additional fee of not more than \$1.50 for registering a vehicle in the county.

(b) A vehicle that may be registered under this chapter without payment of a registration fee may be registered ~~[in a county imposing a fee under this section]~~ without payment of the additional fee.

(c) A fee imposed under this section may take effect ~~[only on January 1 of a year. The county must adopt the order]~~ and ~~[notify the department not later than September 10 of the year preceding the year in which the fee takes effect]~~.

~~[(d) A fee imposed under this section may] be removed in accordance with the provisions of Section 502.401. [The removal may take effect only on January 1 of a year. A county may remove the fee only by:~~

~~[(1) rescinding the order imposing the fee; and~~

~~[(2) notifying the department not later than September 1 of the year preceding the year in which the removal takes effect.]~~

~~[(d) [(e)] The [county assessor collector of a county imposing a fee under this section shall collect the] additional fee shall be collected for a vehicle when other fees imposed under this chapter are collected.~~

~~[(e) [(f)] A county imposing a fee under this section may deduct for administrative costs an amount of not more than 10 percent of the revenue it receives from the fee. The county may also deduct from the fee revenue an amount proportional to the percentage of county residents who live in unincorporated areas of the county. After making the deductions provided for by this subsection, the county shall send the remainder of the fee revenue to the municipalities in the county according to their population.~~

~~[(f) [(g)] A municipality with a population greater than 850,000 shall deposit revenue from a fee imposed under this subsection to the credit of the child safety trust fund created under Section 106.001, Local Government Code. A municipality with a population less than 850,000 shall use revenue from a fee imposed under this section in accordance with Article 102.014(g), Code of Criminal Procedure.~~

~~[(g) [(h)] After deducting administrative costs, a county may use revenue from a fee imposed under this section only for a purpose permitted by Article 102.014(g) [Subsection (g), Article 102.014], Code of Criminal Procedure.~~

SECTION 138. Section 502.174, Transportation Code, is transferred to Subchapter H, Chapter 502, Transportation Code, redesignated as Section 502.404, Transportation Code, and amended to read as follows:

Sec. 502.404 ~~[502.174]~~. VOLUNTARY ASSESSMENT FOR YOUNG FARMER LOAN GUARANTEES. (a) When a person registers a commercial motor vehicle under Section 502.433 ~~[502.163]~~, the person shall pay a voluntary assessment of \$5.

(b) The county assessor-collector shall send an assessment collected under this section to the comptroller, at the time and in the manner prescribed by the Texas Agricultural Finance Authority, for deposit in the Texas agricultural fund.

(c) The Texas Agricultural Finance Authority shall prescribe procedures under which an assessment collected under this section may be refunded. The county assessor-collector of the county in which an assessment is collected shall:

(1) implement the refund procedures; and

(2) provide notice of those procedures to a person paying an assessment at the time of payment.

SECTION 139. Section 502.1745, Transportation Code, is transferred to Subchapter H, Chapter 502, Transportation Code, redesignated as Section 502.405, Transportation Code, and amended to read as follows:

Sec. 502.405 ~~[502.1745]~~. DONOR EDUCATION, AWARENESS, AND REGISTRY PROGRAM ~~[VOLUNTARY FEE]~~. (a) The department shall provide to each county assessor-collector the educational materials for prospective donors provided as required by the Donor Education, Awareness, and Registry Program of Texas under Chapter 49, Health and Safety Code. ~~The [A county assessor collector shall make the]~~ educational materials shall be made available in each office authorized to accept applications for registration of motor vehicles.

(b) A person may elect to pay ~~[county assessor collector shall collect]~~ an additional fee of \$1 for the registration or renewal of registration of a motor vehicle to pay the costs of the Donor Education, Awareness, and Registry Program of Texas, established under Chapter 49, Health and Safety Code, and of the Texas Organ, Tissue, and Eye Donor Council, established under Chapter 113, Health and Safety Code ~~[- if the person registering or renewing the registration of a motor vehicle opts to pay the additional fee]~~. Notwithstanding any other provision of this chapter, ~~[the county assessor collector shall remit]~~ all fees collected under this subsection shall be remitted to the comptroller, who shall maintain the identity of the source of the fees.

(c) Three percent of all money collected under this section may be appropriated only to the department to administer this section.

SECTION 140. The heading to Subchapter I, Chapter 502, Transportation Code, is amended to read as follows:

SUBCHAPTER I. ALTERNATE REGISTRATION FEES ~~[TRANSFER AND REMOVAL OF LICENSE PLATES FOR THE SALE OR TRANSFER OF USED VEHICLES]~~

SECTION 141. Section 502.164, Transportation Code, is transferred to Subchapter I, Chapter 502, Transportation Code, and redesignated as Section 502.431, Transportation Code, to read as follows:

Sec. 502.431 ~~[502.164]~~. FEE: MOTOR VEHICLE USED EXCLUSIVELY TO TRANSPORT AND SPREAD FERTILIZER. The fee for a registration year for registration of a motor vehicle designed or modified and used exclusively to transport to the field and spread fertilizer, including agricultural limestone, is \$75.

SECTION 142. Section 502.1586, Transportation Code, is transferred to Subchapter I, Chapter 502, Transportation Code, redesignated as Section 502.432, Transportation Code, and amended to read as follows:

Sec. 502.432 ~~[502.1586]~~. ~~[REGISTRATION PERIOD FOR TRUCK TRACTOR OR COMMERCIAL MOTOR]~~ VEHICLE TRANSPORTING SEASONAL AGRICULTURAL PRODUCTS. (a) The department shall provide for a monthly registration period for a truck-tractor or a commercial motor vehicle ~~[that]~~:

- (1) that is used exclusively to transport a seasonal agricultural product;
- ~~[and]~~
- (2) that would otherwise be registered for a vehicle registration year;
- and
- (3) for which the owner can show proof of payment of the heavy vehicle use tax or exemption.

(b) The department shall ~~[adopt forms for registration under this section. An applicant must indicate the number of months registration is applied for.]~~

~~[(e) The department shall design,] prescribe [,-and furnish] a registration receipt that is valid until the expiration of the designated registration period.~~

~~[(c) [(d)] The registration fee for a registration under this section is computed at a rate of one-twelfth the annual registration fee under Section 502.253 [502.162], 502.255 [502.163], or 502.433 [502.167], as applicable, multiplied by the number of months in the registration period specified in the application for the registration, which may not be less than one month or longer than six months.~~

~~[(d) [(e) A person issued a registration under this section commits an offense if the person, during the registration period for the truck tractor or commercial motor vehicle, uses the truck tractor or commercial motor vehicle for a purpose other than to transport a seasonal agricultural product.~~

~~[(f) A truck tractor or commercial motor vehicle may not be registered under this section for a registration period that is less than one month or longer than six months.~~

~~[(g)] For purposes of this section, "to transport a seasonal agricultural product" includes any transportation activity necessary for the production, harvest, or delivery of an agricultural product that is produced seasonally.~~

SECTION 143. Section 502.163, Transportation Code, is transferred to Subchapter I, Chapter 502, Transportation Code, redesignated as Section 502.433, Transportation Code, and amended to read as follows:

Sec. 502.433 ~~[502.163]. FEE: COMMERCIAL FARM MOTOR VEHICLE [USED PRIMARILY FOR FARM PURPOSES; OFFENSE].~~ (a) The registration fee for a commercial motor vehicle as a farm vehicle is 50 percent of the applicable fee under Section 502.253 ~~[502.162]~~ if the vehicle's owner will use the vehicle for commercial purposes only to transport:

(1) the person's own poultry, dairy, livestock, livestock products, timber in its natural state, or farm products to market or another place for sale or processing;

(2) laborers from their place of residence to the owner's farm or ranch;
or

(3) without charge, materials, tools, equipment, or supplies from the place of purchase or storage to the owner's farm or ranch exclusively for the owner's use or for use on the farm or ranch.

(b) A commercial motor vehicle may be registered under this section despite its use for transporting without charge the owner or a member of the owner's family:

(1) to attend church or school;

(2) to visit a doctor for medical treatment or supplies; or

(3) for other necessities of the home or family.

(c) Subsection (b) does not permit the use of a vehicle registered under this section in connection with gainful employment other than farming or ranching.

(d) The department shall provide distinguishing license plates for a vehicle registered under this section.

~~[(e) The owner of a commercial motor vehicle registered under this section commits an offense if the person uses or permits to be used the vehicle for a purpose other than one permitted by this section. Each use or permission for use in violation of this section is a separate offense.~~

~~[(f) An offense under this section is a misdemeanor punishable by a fine of not less than \$25 or more than \$200.]~~

SECTION 144. Section 502.351, Transportation Code, is transferred to Subchapter I, Chapter 502, Transportation Code, redesignated as Section 502.434, Transportation Code, and amended to read as follows:

Sec. 502.434 ~~[502.351]~~. FARM VEHICLES: EXCESS WEIGHT. (a) The owner of a registered commercial motor vehicle, truck-tractor, trailer, or semitrailer may obtain a short-term permit to haul loads of a weight more than that for which the vehicle is registered by paying an additional fee before the additional weight is hauled to transport:

- (1) the person's own seasonal agricultural products to market or another point for sale or processing;
- (2) seasonal laborers from their place of residence to a farm or ranch; or
- (3) materials, tools, equipment, or supplies, without charge, from the place of purchase or storage to a farm or ranch exclusively for use on the farm or ranch.

(b) A permit may not be issued under this section for a period that is less than one month or that:

- (1) is greater than one year; or
- (2) extends beyond the expiration of the registration year for the vehicle.

(c) A permit issued under this section for a quarter must be for a calendar quarter.

(d) The fee for a permit under this section is a percentage of the difference between the registration fee otherwise prescribed ~~[by this chapter]~~ for the vehicle and the annual fee for the desired weight, as follows:

One month (30 consecutive days)	10 percent
One quarter	30 percent
Two quarters	60 percent
Three quarters	90 percent

(e) The department shall design, prescribe, and furnish a sticker, plate, or other means of indicating the additional weight and the registration period for each vehicle registered under this section.

SECTION 145. Section 502.188, Transportation Code, is transferred to Subchapter I, Chapter 502, Transportation Code, redesignated as Section 502.435, Transportation Code, and amended to read as follows:

Sec. 502.435 ~~[502.188]~~. CERTAIN SOIL CONSERVATION EQUIPMENT. (a) The owner of a truck-tractor, semitrailer, or low-boy trailer used on a highway exclusively to transport the owner's soil conservation machinery or equipment used in clearing real property, terracing, or building farm ponds, levees, or ditches may register the vehicle for a fee equal to 50 percent of the fee otherwise prescribed by this chapter for the vehicle.

(b) An owner may register only one truck-tractor and only one semitrailer or low-boy trailer under this section.

(c) An owner ~~[applying for registration under this section]~~ must certify ~~[submit a statement]~~ that the vehicle is to be used only as provided by Subsection (a).

(d) The registration receipt issued for a vehicle registered under this section must be carried in or on the vehicle and ~~[shall]~~ state the nature of the operation for which the vehicle may be used. ~~[The receipt must be carried at all times in or on the vehicle to permit ready inspection.]~~

(e) A vehicle to which this section applies that is operated on a public highway in violation of this section is considered to be operated while unregistered and is immediately subject to the applicable registration fees and penalties prescribed by this chapter.

SECTION 146. Chapter 502, Transportation Code, is amended by adding Subchapter J to read as follows:

SUBCHAPTER J. REGISTRATIONS EXEMPT FROM FEES

SECTION 147. Section 502.201, Transportation Code, as effective September 1, 2011, is transferred to Subchapter J, Chapter 502, Transportation Code, as added by this Act, redesignated as Section 502.451, Transportation Code, and amended to read as follows:

Sec. 502.451 ~~[502.201]~~. ~~[LICENSE PLATES FOR]~~ EXEMPT VEHICLES.

(a) Before license plates are issued or delivered to the owner of a vehicle that is exempt by law from payment of registration fees, the department must approve the application for registration. The department may not approve an application if there is the appearance that:

(1) the vehicle was transferred to the owner or purported owner:

(A) for the sole purpose of evading the payment of registration fees; or

(B) in bad faith; or

(2) the vehicle is not being used in accordance with the exemption requirements.

(b) The department shall revoke the registration of a vehicle issued license plates under this section and may recall the plates if the vehicle is no longer:

(1) owned and operated by the person whose ownership of the vehicle qualified the vehicle for the exemption; or

(2) used in accordance with the exemption requirements.

(c) ~~[(d)]~~ The department shall provide by rule for the issuance of specially designated license plates for vehicles that are exempt by law. Except as provided by Subsection (f) ~~[(e)]~~, the license plates must bear the word "exempt."

(d) ~~[(e)]~~ A license plate under Subsection (c) ~~[(d)]~~ is not issued annually, but remains on the vehicle until:

(1) the registration is revoked as provided by Subsection (b); or

(2) the plate is lost, stolen, or mutilated.

(e) ~~[(f)]~~ A person who operates on a public highway a vehicle after the registration has been revoked is liable for the penalties for failing to register a vehicle.

(f) ~~(e)~~ The department shall provide by rule for the issuance of regularly designed license plates not bearing the word "exempt" for a vehicle that is exempt by law and that is:

(1) a law enforcement vehicle, if the agency certifies to the department that the vehicle will be dedicated to law enforcement activities;

(2) a vehicle exempt from inscription requirements under a rule adopted as provided by Section 721.003; or

(3) a vehicle exempt from inscription requirements under an order or ordinance adopted by a governing body of a municipality or commissioners court of a county as provided by Section 721.005, if the applicant presents a copy of the order or ordinance.

SECTION 148. Section 502.2015, Transportation Code, is transferred to Subchapter J, Chapter 502, Transportation Code, as added by this Act, redesignated as Section 502.452, Transportation Code, and amended to read as follows:

Sec. 502.452 ~~[502.2015]~~. LIMITATION ON ISSUANCE OF EXEMPT LICENSE PLATES; SEIZURE OF CERTAIN VEHICLES. (a) The department may not issue exempt license plates for a vehicle owned by the United States, this state, or a political subdivision of this state unless when application is made for registration of the vehicle, the person who under Section 502.453 ~~[502.202]~~ has authority to certify to the department that the vehicle qualifies for registration under that section also certifies in writing to the department that there is printed on each side of the vehicle, in letters that are at least two inches high or in an emblem that is at least 100 square inches in size, the name of the agency, department, bureau, board, commission, or officer of the United States, this state, or the political subdivision of this state that has custody of the vehicle. The letters or emblem must be of a color sufficiently different from the body of the vehicle to be clearly legible from a distance of 100 feet.

(b) The department may not issue exempt license plates for a vehicle owned by a person other than the United States, this state, or a political subdivision of this state unless, when application is made for registration of the vehicle, the person who under Section 502.453 ~~[502.202]~~ has authority to certify to the department that the vehicle qualifies for registration under that section also certifies in writing to the department that the name of the owner of the vehicle is printed on the vehicle in the manner prescribed by Subsection (a).

(c) A peace officer listed in Article 2.12, Code of Criminal Procedure, may seize a motor vehicle displaying exempt license plates if the vehicle is:

(1) operated on a public highway; and

(2) not identified in the manner prescribed by Subsection (a) or (b), unless the vehicle is covered by Subsection (f).

(d) A peace officer who seizes a motor vehicle under Subsection (c) may require that the vehicle be:

(1) moved to the nearest place of safety off the main-traveled part of the highway; or

(2) removed and placed in the nearest vehicle storage facility designated or maintained by the law enforcement agency that employs the peace officer.

(e) To obtain the release of the vehicle, in addition to any other requirement of law, the owner of a vehicle seized under Subsection (c) must:

(1) remedy the defect by identifying the vehicle as required by Subsection (a) or (b); or

(2) agree in writing with the law enforcement agency to provide evidence to that agency, before the 10th day after the date the vehicle is released, that the defect has been remedied by identifying the vehicle as required by Subsection (a) or (b).

(f) Subsections (a) and (b) do not apply to a vehicle to which Section 502.451(f) [~~502.201(g) or 502.206~~] applies.

(g) For purposes of this section, an exempt license plate is a license plate issued by the department that is plainly marked with the word "exempt."

SECTION 149. Section 502.202, Transportation Code, is transferred to Subchapter J, Chapter 502, Transportation Code, as added by this Act, redesignated as Section 502.453, Transportation Code, and amended to read as follows:

Sec. 502.453 [~~502.202~~]. GOVERNMENT-OWNED VEHICLES; PUBLIC SCHOOL BUSES; FIRE-FIGHTING VEHICLES; COUNTY MARINE LAW ENFORCEMENT VEHICLES. (a) The owner of a motor vehicle, trailer, or semitrailer may annually apply for registration under Section 502.451 [~~502.201~~] and is exempt from the payment of a registration fee under this chapter if the vehicle is:

(1) owned by and used exclusively in the service of:

(A) the United States;

(B) this state; or

(C) a county, municipality, or school district in this state;

(2) owned by a commercial transportation company and used exclusively to provide public school transportation services to a school district under Section 34.008, Education Code;

(3) designed and used exclusively for fire fighting;

(4) owned by a volunteer fire department and used exclusively in the conduct of department business; ~~or~~

(5) privately owned and used by a volunteer exclusively in county marine law enforcement activities, including rescue operations, under the direction of the sheriff's department; or

(6) used by law enforcement under an alias for covert criminal investigations.

(b) An application for registration under this section must be made by a person having the authority to certify that the vehicle meets the exemption requirements prescribed by Subsection (a). An application for registration under this section of a fire-fighting vehicle described by Subsection (a)(3) must include a reasonable description of the vehicle and of any fire-fighting equipment mounted on the vehicle. An application for registration under this section of a

vehicle described by Subsection (a)(5) must include a statement signed by a person having the authority to act for a sheriff's department that the vehicle is used exclusively in marine law enforcement activities under the direction of the sheriff's department.

SECTION 150. Section 502.203, Transportation Code, is transferred to Subchapter J, Chapter 502, Transportation Code, as added by this Act, redesignated as Section 502.454, Transportation Code, and amended to read as follows:

Sec. 502.454 [~~502.203~~]. VEHICLES USED BY NONPROFIT DISASTER RELIEF ORGANIZATIONS. (a) The owner of a commercial motor vehicle, trailer, or semitrailer may apply for registration under Section 502.451 [~~502.201~~] and is exempt from the payment of the registration fee that would otherwise be required by this chapter if the vehicle is owned and used exclusively for emergencies by a nonprofit disaster relief organization.

(b) An application for registration under this section must include:

(1) a statement by the owner of the vehicle that the vehicle is used exclusively for emergencies and has not been used for any other purpose;

(2) a statement signed by an officer of the nonprofit disaster relief organization that the vehicle has not been used for any purpose other than emergencies and qualifies for registration under this section; and

(3) a reasonable description of the vehicle and the emergency equipment included in the vehicle.

(c) An applicant for registration under this section must pay a fee of \$5.

(d) A commercial motor vehicle registered under this section must display the name of the organization that owns it on each front door.

(e) A vehicle registered under this section must display at all times an appropriate license plate showing the vehicle's status.

(f) A vehicle registered under this section that is used for any purpose other than an emergency may not again be registered under this section.

SECTION 151. Section 502.2035, Transportation Code, is transferred to Subchapter J, Chapter 502, Transportation Code, as added by this Act, and redesignated as Section 502.455, Transportation Code, to read as follows:

Sec. 502.455 [~~502.2035~~]. TRAILERS AND SEMITRAILERS OWNED BY RELIGIOUS ORGANIZATIONS. (a) A trailer or semitrailer may be registered without payment if the trailer or semitrailer is:

(1) owned by an organization that qualifies as a religious organization under Section 11.20, Tax Code; and

(2) used primarily for the purpose of transporting property in connection with the charitable activities and functions of the organization.

(b) An application for registration under this section must include a statement signed by an officer of the religious organization stating that the trailer or semitrailer qualifies for registration under this section.

SECTION 152. Section 502.204, Transportation Code, is transferred to Subchapter J, Chapter 502, Transportation Code, as added by this Act, redesignated as Section 502.456, Transportation Code, and amended to read as follows:

Sec. 502.456 [~~502.204~~]. EMERGENCY SERVICES VEHICLES. (a) A vehicle may be registered without payment if:

(1) the vehicle is owned or leased by an emergency medical services provider that:

(A) is a nonprofit entity; or

(B) is created and operated by:

(i) a county;

(ii) a municipality; or

(iii) any combination of counties and municipalities through a contract, joint agreement, or other method provided by Chapter 791, Government Code, or other law authorizing counties and municipalities to provide joint programs; and

(2) the vehicle:

(A) is authorized under an emergency medical services provider license issued by the Department of State [~~Texas Board of~~] Health Services under Chapter 773, Health and Safety Code, and is used exclusively as an emergency medical services vehicle; or

(B) is an emergency medical services chief or supervisor vehicle and is used exclusively as an emergency services vehicle.

(b) A vehicle may be registered without payment of a registration fee if the vehicle:

(1) is owned by the Civil Air Patrol, Texas Wing; and

(2) is used exclusively as an emergency services vehicle by members of the Civil Air Patrol, Texas Wing.

(c) An application for registration under Subsection (a) must be accompanied by a copy of the license issued by the Department of State [~~Texas Board of~~] Health Services. An application for registration of an emergency medical services vehicle must include a statement signed by an officer of the emergency medical services provider that the vehicle is used exclusively as an emergency response vehicle and qualifies for registration under this section. An application for registration of an emergency medical services chief or supervisor vehicle must include a statement signed by an officer of the emergency medical services provider stating that the vehicle qualifies for registration under this section.

(d) An application for registration under Subsection (b) must include a statement signed by an officer of the Civil Air Patrol, Texas Wing, that the vehicle is used exclusively as an emergency services vehicle by members of the Civil Air Patrol, Texas Wing.

(e) The department must approve an application for registration under this section as provided by Section 502.451 [~~502.201~~].

SECTION 153. Section 520.0225, Transportation Code, is transferred to Subchapter J, Chapter 502, Transportation Code, as added by this Act, redesignated as Section 502.457, Transportation Code, and amended to read as follows:

Sec. 502.457 [~~520.0225~~]. PERSONS ON ACTIVE DUTY IN ARMED FORCES OF UNITED STATES. (a) This section applies only to a used motor vehicle that is owned by a person who:

- (1) is on active duty in the armed forces of the United States;
- (2) is stationed in or has been assigned to another nation under military orders; and
- (3) has registered the vehicle or been issued a license for the vehicle under the applicable status of forces agreement by:

(A) the appropriate branch of the armed forces of the United States; or

(B) the nation in which the person is stationed or to which the person has been assigned.

(b) The requirement [~~in Section 520.021~~] that a used vehicle be registered under the law of this state does not apply to a vehicle described by Subsection (a). In lieu of delivering the license receipt to the transferee of the vehicle, as required by Section 501.0721 [~~520.022~~], the person selling, trading, or otherwise transferring a used motor vehicle described by Subsection (a) shall deliver to the transferee:

(1) a letter written on official letterhead by the owner's unit commander attesting to the registration of the vehicle under Subsection (a)(3); or

(2) the registration receipt issued by the appropriate branch of the armed forces or host nation.

(c) A registration receipt issued by a host nation that is not written in the English language must be accompanied by:

- (1) a written translation of the registration receipt in English; and
- (2) an affidavit, in English and signed by the person translating the registration receipt, attesting to the person's ability to translate the registration receipt into English.

SECTION 154. Chapter 502, Transportation Code, is amended by adding Subchapter K to read as follows:

SUBCHAPTER K. OFFENSES AND PENALTIES

SECTION 155. Section 502.401, Transportation Code, is transferred to Subchapter K, Chapter 502, Transportation Code, as added by this Act, redesignated as Section 502.471, Transportation Code, and amended to read as follows:

Sec. 502.471 [~~502.401~~]. GENERAL PENALTY. (a) A person commits an offense if the person violates a provision of this chapter and no other penalty is prescribed for the violation.

(b) This section does not apply to a violation of Section 502.003, 502.042, 502.197 [~~502.101, 502.109, 502.112, 502.113, 502.114, 502.152, 502.164~~], or 502.431 [~~502.282~~].

(c) Unless otherwise specified, an [~~An~~] offense under this section is a misdemeanor punishable by a fine not to exceed \$200.

SECTION 156. Section 502.402, Transportation Code, is transferred to Subchapter K, Chapter 502, Transportation Code, as added by this Act, redesignated as Section 502.472, Transportation Code, and amended to read as follows:

Sec. 502.472 ~~[502.402]~~. OPERATION OF VEHICLE UNDER IMPROPER REGISTRATION ~~[UNREGISTERED MOTOR VEHICLE]~~. ~~[(a)]~~ A person commits an offense if the person operates a motor vehicle that has not been registered or registered for a class other than that to which the vehicle belongs as required by law. ~~[An offense under this subsection is a misdemeanor punishable by a fine not to exceed \$200.]~~

SECTION 157. Section 502.404, Transportation Code, is transferred to Subchapter K, Chapter 502, Transportation Code, as added by this Act, redesignated as Section 502.473, Transportation Code, and amended to read as follows:

Sec. 502.473 ~~[502.404]~~. OPERATION OF VEHICLE WITHOUT ~~[LICENSE PLATE OR]~~ REGISTRATION INSIGNIA. (a) ~~[A person commits an offense if the person operates on a public highway during a registration period a passenger car or commercial motor vehicle that does not display two license plates, at the front and rear of the vehicle, that have been:~~

~~[(1) assigned by the department for the period; or~~

~~[(2) validated by a registration insignia issued by the department that establishes that the vehicle is registered for the period.]~~

~~[(b)]~~ A person commits an offense if the person operates on a public highway during a registration period a ~~[passenger car or commercial]~~ motor vehicle~~], other than a vehicle assigned license plates for the registration period,~~ that does not properly display the registration insignia issued by the department that establishes that the license plates have been validated for the period.

~~[(b)]~~ ~~[(c)]~~ A person commits an offense if the person operates on a public highway during a registration period a road tractor, motorcycle, trailer, or semitrailer that does not display ~~[a license plate, attached to the rear of the vehicle, that has been:~~

~~[(1) assigned by the department for the period; or~~

~~[(2) validated by]~~ a registration insignia issued by the department that establishes that the vehicle is registered for the period.

~~[(c)]~~ This section does ~~[(d) Subsections (a) and (b) do]~~ not apply to a dealer operating a vehicle as provided by law.

~~[(d)]~~ ~~[(e)]~~ An offense under this section is a misdemeanor punishable by a fine not to exceed \$200.

~~[(f)]~~ A court may dismiss a charge brought under Subsection (a) if the defendant:

~~[(1) remedies the defect before the defendant's first court appearance; and~~

~~[(2) pays an administrative fee not to exceed \$10.]~~

~~[(g)]~~ A court may dismiss a charge brought under Subsection (a) ~~[(f)]~~ if the defendant:

(1) shows that[=

~~[(A)] the [passenger car or commercial] motor vehicle was issued a registration insignia by the department that was attached to the motor vehicle, establishing that [establishes that] the vehicle was registered for the period during which the offense was committed; and~~

~~[(B) the registration insignia described in Paragraph (A) was attached to the passenger car or commercial motor vehicle before the defendant's first court appearance; and]~~

(2) pays an administrative fee not to exceed \$10.

SECTION 158. Subchapter K, Chapter 502, Transportation Code, as added by this Act, is amended by adding Section 502.474 to read as follows:

Sec. 502.474. OPERATION OF ONE-TRIP PERMIT VEHICLE. A person commits an offense if the person operates a vehicle for which a one-trip permit is required without the registration receipt and properly displayed temporary tag.

SECTION 159. Section 502.409, Transportation Code, is transferred to Subchapter K, Chapter 502, Transportation Code, as added by this Act, redesignated as Section 502.475, Transportation Code, and amended to read as follows:

Sec. 502.475 [502.409]. WRONG, FICTITIOUS, ALTERED, OR OBSCURED INSIGNIA [LICENSE PLATE]. (a) A person commits an offense if the person attaches to or displays on a motor vehicle a ~~[number plate or]~~ registration insignia that:

(1) is assigned to a different motor vehicle;

(2) is assigned to the vehicle under any other motor vehicle law other than by the department;

(3) is assigned for a registration period other than the registration period in effect; or

(4) is fictitious[;]

~~[(5) has blurring or reflective matter that significantly impairs the readability of the name of the state in which the vehicle is registered or the letters or numbers of the license plate number at any time;~~

~~[(6) has an attached illuminated device or sticker, decal, emblem, or other insignia that is not authorized by law and that interferes with the readability of the letters or numbers of the license plate number or the name of the state in which the vehicle is registered; or~~

~~[(7) has a coating, covering, protective material, or other apparatus that:~~

~~[(A) distorts angular visibility or detectability;~~

~~[(B) alters or obscures one half or more of the name of the state in which the vehicle is registered; or~~

~~[(C) alters or obscures the letters or numbers of the license plate number or the color of the plate].~~

(b) Except as provided by Subsection (d) ~~[(A)]~~, an offense under Subsection (a) is a misdemeanor punishable by a fine of not more than \$200, unless it is shown at the trial of the offense that the owner knowingly altered or made illegible the letters, numbers, and other identification marks, in which case the offense is a Class B misdemeanor.

(c) ~~[Subsection (a)(7) may not be construed to apply to:~~

~~[(1) a trailer hitch installed on a vehicle in a normal or customary manner;~~

~~[(2) a transponder, as defined by Section 228.057, that is attached to a vehicle in the manner required by the issuing authority;~~

~~[(3) a wheelchair lift or wheelchair carrier that is attached to a vehicle in a normal or customary manner;~~

~~[(4) a trailer being towed by a vehicle; or~~

~~[(5) a bicycle rack that is attached to a vehicle in a normal or customary manner.~~

~~[(4)]~~ A court may dismiss a charge brought under Subsection (a)(3)~~[(5), (6), or (7)]~~ if the defendant:

(1) remedies the defect before the defendant's first court appearance; and

(2) pays an administrative fee not to exceed \$10.

(d) ~~[(4)]~~ An offense under Subsection (a)(4) is a Class B misdemeanor.

SECTION 160. Subchapter K, Chapter 502, Transportation Code, as added by this Act, is amended by adding Sections 502.476, 502.477, 502.478, and 502.479 to read as follows:

Sec. 502.476. ANNUAL PERMITS; OFFENSE. A person who violates Section 502.093 commits an offense.

Sec. 502.477. NONRESIDENT-OWNED VEHICLES USED TO TRANSPORT AGRICULTURAL PRODUCT; OFFENSE. (a) A person operating a vehicle under a permit issued under Section 502.092 commits an offense if the person transports farm products to a place of market, storage, or processing or a railhead or seaport that is farther from the place of production or point of entry, as appropriate, than the distance provided for in the permit.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$25 or more than \$200.

Sec. 502.478. COMMERCIAL MOTOR VEHICLE USED PRIMARILY FOR AGRICULTURAL PURPOSES; OFFENSE. (a) The owner of a commercial motor vehicle registered under Section 502.433 commits an offense if the person uses or permits the use of the vehicle for a purpose other than one allowed under Section 502.433. Each use or permission of use in violation of this section is a separate offense.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$25 or more than \$200.

Sec. 502.479. SEASONAL AGRICULTURAL VEHICLE; OFFENSE. A person issued a registration under Section 502.432 commits an offense if the person, during the registration period, uses the truck-tractor or commercial motor vehicle for a purpose other than to transport a seasonal agricultural product.

SECTION 161. Section 520.014, Transportation Code, is transferred to Subchapter K, Chapter 502, Transportation Code, as added by this Act, redesignated as Section 502.480, Transportation Code, and amended to read as follows:

Sec. 502.480 ~~[520.014]~~. VIOLATION BY COUNTY ASSESSOR-COLLECTOR; PENALTY. (a) A county assessor-collector commits an offense if the county assessor-collector knowingly accepts an application for the registration of a motor vehicle that:

(1) has had the original motor number or vehicle identification number removed, erased, or destroyed; and

(2) does not bear a motor number or vehicle identification number assigned by the department.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$10 and not more than \$50.

SECTION 162. Chapter 502, Transportation Code, is amended by adding Subchapter L to read as follows:

SUBCHAPTER L. REGISTRATION AND TRANSFER OF USED VEHICLES

SECTION 163. Section 502.451, Transportation Code, is transferred to Subchapter L, Chapter 502, Transportation Code, as added by this Act, redesignated as Section 502.491, Transportation Code, and amended to read as follows:

Sec. 502.491 ~~[502.451]~~. TRANSFER OF VEHICLE REGISTRATION ~~[AND REMOVAL OF LICENSE PLATES]~~. (a) On the sale or transfer of a motor vehicle ~~[to a dealer]~~, ~~[as defined by Section 503.001, who holds a general distinguishing number issued under Chapter 503, the dealer shall remove each license plate and]~~ the registration insignia issued for the motor vehicle shall be removed.

~~[(a 1) On a sale or transfer of a motor vehicle to a person that does not hold a general distinguishing number issued under Chapter 503, the seller or transferor may remove each license plate and the registration insignia issued for the motor vehicle.]~~

(b) On a sale or transfer of a motor vehicle in which neither party holds a general distinguishing number issued under Chapter 503, the ~~[A license plate removed from a motor vehicle under Subsection (a) or (a 1) must be:~~

~~[(1) disposed of in the manner specified by the department; or~~

~~[(2) transferred to another vehicle owned by the seller or transferor as provided by Section 502.452.~~

~~[(c) The]~~ part of the registration period remaining at the time of the sale or transfer shall continue with the vehicle being sold or transferred and does not transfer with the license plates or registration validation insignia. To continue the remainder of the registration period, the purchaser or transferee must file the documents required under Section 501.145 ~~[520.034]~~.

(c) On the sale or transfer of a motor vehicle to a dealer, as defined by Section 503.001, who holds a general distinguishing number issued under Chapter 503, the registration period remaining at the time of the sale or transfer expires at the time of the sale or transfer. On the sale of a used motor vehicle by a dealer, the dealer shall issue to the buyer new registration documents for an entire registration year.

SECTION 164. Section 502.454, Transportation Code, is transferred to Subchapter L, Chapter 502, Transportation Code, as added by this Act, redesignated as Section 502.492, Transportation Code, and amended to read as follows:

Sec. 502.492 [~~502.454~~]. TEMPORARY TRANSIT PERMIT FOR A VEHICLE PURCHASED [~~IN A PRIVATE PARTY TRANSACTION~~]. (a) A purchaser [~~or transferee~~] may obtain from the department a temporary transit [~~single trip~~] permit to operate a motor vehicle:

(1) that is subject to registration in this state;

(2) from which the license plates and the registration insignia have been removed as authorized by Section 502.491 or 504.901 [~~502.451(a-1)~~]; and

(3) that is not authorized to travel on a public roadway because the required license plates and the registration insignia are not attached to the vehicle.

(b) The department may issue the permit in accordance with this section.

(c) A permit issued under this section is valid for one trip between the point of origin and the destination and those intermediate points specified in the permit.

(d) A permit issued under this section may not be valid for longer than a five-day period.

(e) A person may obtain a permit under this section by applying, as [~~on a form~~] provided by the department, to the department. Application may be made using the department's Internet website.

(f) A person is eligible to receive only one permit under this section for a motor vehicle.

(g) A permit receipt issued under this section must be in [~~on~~] a manner [~~form~~] provided by the department. The receipt must contain the information required by this section and shall be carried in the vehicle at all times during which it is valid.

(h) The department may refuse to issue a permit under this section for any vehicle if in the department's opinion the applicant has been involved in operations that constitute an abuse of the privilege granted under this section.

SECTION 165. The heading to Chapter 504, Transportation Code, is amended to read as follows:

CHAPTER 504. [~~SPECIALTY~~] LICENSE PLATES

SECTION 166. Section 504.001(a), Transportation Code, is amended by adding Subdivision (3) to read as follows:

(3) "Purchaser" and "seller" have the meanings assigned by Section 501.002.

SECTION 167. Section 504.004, Transportation Code, is redesignated as Section 504.0011, Transportation Code, and amended to read as follows:

Sec. 504.0011 [~~504.004~~]. RULES [~~AND FORMS~~]. The board may adopt rules [~~and the department may issue forms~~] to implement and administer this chapter.

SECTION 168. Section 504.002, Transportation Code, is amended to read as follows:

Sec. 504.002. ~~[PROVISIONS OF]~~ GENERAL PROVISIONS ~~[APPLICABILITY]~~. Unless expressly provided by this chapter or by department rule:

(1) ~~except for license plates specified as exempt, [any vehicle is eligible to be issued specialty license plates, provided that the department may vary the design of a license plate to accommodate or reflect its use on a motor vehicle other than a passenger car or light truck;~~

~~[(2) an application for specialty license plates must be submitted in the manner specified by the department, provided that if issuance of a specialty license plate is limited to particular persons or motor vehicles, the application must be accompanied by evidence satisfactory to the department that the applicant or the applicant's vehicle is eligible;~~

~~[(3) the fee for issuance of a [specialty] license plate, including replacement plates, is in addition to each other fee that is paid for [or] at the time of the registration of the motor vehicle and shall be deposited to the credit of the state highway fund;~~

~~[(2) if the registration period is greater than 12 months, the expiration date of a specialty license plate, symbol, tab, or other device shall be aligned with the registration period, and the specialty plate fee shall be adjusted pro rata, except that if the statutory annual fee for a specialty license plate is \$5 or less, it may not be prorated;~~

~~[(3) [(4) each fee described by this chapter is an annual fee, provided that the department may prorate the fee for a specialty license plate fee on a monthly basis to align the license plate fee to the registration period for the motor vehicle for which the license plate was issued, and if a fee is prorated the allocation of the fee by this chapter to an account or fund shall be prorated in proportion;~~

~~[(5) the department is the exclusive owner of the design of each [specialty] license plate;~~

~~[(4) [(6) the director may refuse to issue a specialty license plate with a design or alphanumeric pattern that the director considers potentially objectionable to one or more members of the public and the director's refusal may not be overturned in the absence of an abuse of discretion;~~

~~[(7) for each specialty license plate that is issued through a county tax assessor collector and for which the department is allocated a portion of a fee for administrative costs, the department shall credit 50 cents from its administrative costs to the county treasurer of the applicable county, who shall credit the money to the general fund of the county to defray the costs to the county of administering this chapter;~~

~~[(8) if a [specialty] license plate is lost, stolen, or mutilated, an application for a replacement plate must be accompanied by the fee prescribed by Section 502.060 [502.184(a)(2);~~

~~[(9) if the owner of a motor vehicle for which a specialty license plate is issued disposes of the vehicle or for any reason ceases to be eligible for that specialty license plate, the owner shall return the specialty license plate to the department]; and~~

(5) the department shall prepare the designs and specifications of license plates ~~[(10) a person who is issued a specialty license plate may not transfer it to another person or vehicle without first receiving approval from the department].~~

SECTION 169. Section 504.103, Transportation Code, is transferred to Subchapter A, Chapter 504, Transportation Code, redesignated as Section 504.005, Transportation Code, and amended to read as follows:

Sec. 504.005 ~~[504.103]~~. DESIGN AND ALPHANUMERIC PATTERN. (a) The department has sole control over the design, typeface, color, and alphanumeric pattern for all ~~a personalized~~ license plates ~~[plate]~~.

(b) The department shall prepare the designs and specifications of license plates and devices selected by the board to be used as a unique identifier.

(c) The department shall design each license plate to include a design at least one-half inch wide that represents in silhouette the shape of Texas and that appears between letters and numerals. The department may omit the silhouette of Texas from specially designed license plates.

(d) To promote highway safety, each license plate shall be made with a reflectorized material that provides effective and dependable brightness for the period for which the plate is issued.

SECTION 170. Subchapter A, Chapter 504, Transportation Code, is amended by adding Section 504.0051 to read as follows:

Sec. 504.0051. PERSONALIZED LICENSE PLATES. (a) The department shall issue personalized license plates, including those issued in accordance with the marketing vendor as provided in Subchapter J. The department may not issue more than one set of license plates with the same alphanumeric pattern.

(b) The department may not issue a replacement set of personalized plates to the same person before the period set by rule unless the applicant for issuance of replacement plates pays the fee required by Section 504.007.

SECTION 171. Section 502.053, Transportation Code, is transferred to Subchapter A, Chapter 504, Transportation Code, redesignated as Section 504.006, Transportation Code, and amended to read as follows:

Sec. 504.006 ~~[502.053]~~. COST OF MANUFACTURING ~~[LICENSE PLATES OR REGISTRATION INSIGNIA]~~. (a) The department shall reimburse the Texas Department of Criminal Justice for the cost of manufacturing license plates ~~[or registration insignia]~~ as ~~[the license plates or insignia and]~~ the invoices ~~[invoice]~~ for the license plates ~~[or insignia]~~ are delivered to the department.

(b) When manufacturing is started, the Texas Department of Criminal Justice and ~~[;]~~ the department, ~~[and the comptroller,]~~ after negotiation, shall set the price to be paid for each license plate ~~[or insignia]~~. The price must be determined from:

- (1) the cost of metal, paint, and other materials purchased;
- (2) the inmate maintenance cost per ~~shift~~ day;
- (3) overhead expenses;
- (4) miscellaneous charges; and
- (5) a previously agreed upon ~~[approved]~~ amount of profit for the work.

~~[(e) The annual profit received by the Texas Department of Criminal Justice from all contracts for the manufacturing of license plates or related manufacturing may not be less than the profit received by the Texas Department of Corrections for manufacturing license plates for use in 1974.]~~

SECTION 172. Section 502.1841, Transportation Code, as effective September 1, 2011, is transferred to Subchapter A, Chapter 504, Transportation Code, redesignated as Section 504.007, Transportation Code, and amended to read as follows:

Sec. 504.007 ~~[502.1841]~~. REPLACEMENT LICENSE PLATES. (a) The owner of a registered motor vehicle may obtain replacement license plates for the vehicle by:

(1) certifying that the replacement plates will not be used on any other vehicle owned or operated by the person making the statement;

(2) paying a fee of \$6 plus the fee required by Section 502.356(a) ~~[502.1705(a)]~~ for each set of replacement license plates, unless otherwise specified by law; and

(3) returning to the department each license plate in the owner's possession for which a replacement license plate is obtained.

(b) Replacement license plates may not be issued except as provided by this section.

(c) A county assessor-collector shall retain \$2.50 of each fee collected under this section and forward the remainder of the fee to the department.

(d) The fee required by this section applies to the issuance of license plates for a transferred used vehicle for which the registration and license plates were not transferred under Section 504.901 ~~[Subchapter F]~~.

(e) Replacement license plates may be used in the registration year in which the plates are issued and during each succeeding year of the registration period as set by rule if the registration insignia is properly displayed on the vehicle.

(f) Subsection (e) does not apply to the issuance of specialized license plates for limited distribution, including exempt plates for governmental entities and temporary registration plates.

SECTION 173. Subchapter A, Chapter 504, Transportation Code, is amended by adding Section 504.008 to read as follows:

Sec. 504.008. SPECIALTY LICENSE PLATES. (a) The department shall prepare the designs and specifications of specialty license plates.

(b) Any motor vehicle other than a vehicle manufactured for off-highway use only is eligible to be issued specialty license plates, provided that the department may vary the design of a license plate to accommodate or reflect its use on a motor vehicle other than a passenger car or light truck.

(c) An application for specialty license plates must be submitted in the manner specified by the department, provided that if issuance of a specialty license plate is limited to particular persons or motor vehicles, the application must be accompanied by evidence satisfactory to the department that the applicant or the applicant's vehicle is eligible.

(d) Each fee described by this chapter is an annual fee, provided that the department may prorate the fee for a specialty license plate fee on a monthly basis to align the license plate fee to the registration month for the motor vehicle for which the license plate was issued, and if a fee is prorated the allocation of the fee by this chapter to an account or fund shall be prorated in proportion.

(e) The director or the director's designee may refuse to issue a specialty license plate with a design or alphanumeric pattern that the director or designee considers potentially objectionable to one or more members of the public and the director or designee's refusal may not be overturned in the absence of an abuse of discretion.

(f) For each specialty license plate that is issued by a county assessor-collector and for which the department is allocated a portion of the fee for administrative costs, the department shall credit 50 cents from its administrative costs to the county treasurer of the applicable county, who shall credit the money to the general fund of the county to defray the costs to the county of administering this chapter.

(g) If the owner of a motor vehicle for which a specialty license plate is issued disposes of the vehicle or for any reason ceases to be eligible for that specialty license plate, the owner shall return the specialty license plate to the department.

(h) A person who is issued a specialty license plate may not transfer the plate to another person or vehicle unless the department approves the transfer.

SECTION 174. Section 504.003, Transportation Code, is redesignated as Section 504.009, Transportation Code, and amended to read as follows:

Sec. 504.009 [~~504.003~~]. SOUVENIR LICENSE PLATES. (a) The department may issue a souvenir version of any specialty license plate for any vehicle~~[-, including a motorcycle]~~.

(b) The fee for a single souvenir license plate is \$20. The fee shall be deposited to the credit of the state highway fund unless the souvenir license plate is a replica of a specialty license plate issued under Subchapter G or I for which the fee is deposited to an account other than the state highway fund, in which case:

(1) \$10 of the fee for the souvenir license plate shall be deposited to the credit of the designated account; and

(2) \$10 of the fee for the souvenir license plate shall be deposited to the credit of the state highway fund.

(c) If a souvenir license plate issued before November 19 [~~September 1~~], 2009, is personalized, the fee for the plate is \$40. Of the fee:

(1) \$20 shall be deposited to the credit of the state highway fund;

(2) \$10 shall be deposited to the credit of the designated account if the souvenir license plate is a replica of a specialty license plate issued under Subchapter G or I for which the fee is deposited to a designated account other than the state highway fund; and

(3) the remainder shall be deposited to the credit of the general revenue fund.

(c-1) The fee for a souvenir license plate issued on or after November 19 ~~[September 1]~~, 2009, is the amount established under Section 504.851(c).

(d) A souvenir license plate may not be used on a motor vehicle~~[-including a motorcycle,]~~ and is not an insignia of registration for a motor vehicle. Each souvenir license plate must be identified by the department in a way that identifies it to law enforcement officers and others as a souvenir license plate.

(e) A beneficiary of a specialty license plate issued under Subchapter G or I, as designated by the applicable section of those subchapters, may purchase the specialty license plates, in minimum amounts determined by the department ~~[boxes of 25]~~, for use or resale by the beneficiary. The beneficiary shall pay the required fee per plate, less the amount of the fee that would be deposited to the credit of the designated account.

SECTION 175. Subchapter A, Chapter 504, Transportation Code, is amended by adding Section 504.010 to read as follows:

Sec. 504.010. ISSUANCE AND PLACEMENT OF LICENSE PLATE. (a) On payment of the prescribed fee, an applicant for motor vehicle registration shall be issued a license plate or set of plates.

(b) Subject to Section 504.901, the department shall issue only one license plate or set of plates for a vehicle during the registration period set by rule.

(c) The board may adopt rules regarding the placement of license plates for a motor vehicle, road tractor, motorcycle, trailer, or semitrailer.

SECTION 176. Subchapter B, Chapter 504, Transportation Code, is amended by adding Section 504.101 to read as follows:

Sec. 504.101. PERSONALIZED LICENSE PLATES. The department shall issue personalized license plates, including those sold by the private vendor under a contract with the department as provided by Section 504.851.

SECTION 177. Sections 504.201(b), (d), and (g), Transportation Code, are amended to read as follows:

(b) The department shall issue specialty license plates for a motor vehicle that:

(1) has a gross vehicle weight ~~[manufacturer's rated carrying capacity]~~ of 18,000 pounds ~~[two tons]~~ or less; and

(2) is regularly operated for noncommercial use by or for the transportation of a person with a permanent disability.

(d) Except as provided by Subsection (d-1), the initial application for specialty license plates under this section must be accompanied by a written statement from a physician who is licensed to practice medicine in this state or in a state adjacent to this state or who is authorized by applicable law to practice medicine in a hospital or other health facility of the Department of Veterans Affairs. If the applicant has a mobility problem caused by a disorder of the foot, the written statement may be issued by a person licensed to practice podiatry in this state or a state adjacent to this state. In this subsection, "podiatry" has the meaning assigned by Section 681.001. The statement must certify that the person making the application or on whose behalf the application is made is legally blind or has a mobility problem that substantially impairs the person's ability to

ambulate. The statement must also certify whether a mobility problem is temporary or permanent. A written statement is not required as acceptable medical proof if:

- (1) the person with a disability:
 - (A) has had a limb, hand, or foot amputated; or
 - (B) must use a wheelchair; and
- (2) the applicant executes a statement ~~[and the county assessor-collector processing the application execute an affidavit]~~ attesting to the person's disability before the county assessor-collector.

(g) In addition to a license plate issued under this section, an eligible person is entitled to be issued a set of the license plates for each motor vehicle owned by the person that has a gross vehicle weight ~~[carrying capacity]~~ of 18,000 pounds ~~[two tons]~~ or less and is equipped with special equipment that:

- (1) is designed to allow a person who has lost the use of one or both of the person's legs to operate the vehicle; and
- (2) is not standard equipment on that type of vehicle for use by a person who has use of both legs.

SECTION 178. Section 504.202, Transportation Code, is amended by amending Subsections (b) and (f) and adding Subsection (i) to read as follows:

(b) A veteran of the United States armed forces is entitled to register, for the person's own use, motor vehicles under this section if:

- (1) the person has suffered, as a result of military service:
 - (A) at least a 50 percent service-connected disability; or
 - (B) a 40 percent service-connected disability because of the amputation of a lower extremity;
- (2) the person receives compensation from the United States because of the disability; and
- (3) the motor vehicle:
 - (A) is owned by the person; and
 - (B) has a gross vehicle weight ~~[manufacturer's rated carrying capacity]~~ of 18,000 pounds ~~[two tons]~~ or less.

(f) The fee for the first set of license plates is \$3. There is no fee for each additional set of license plates. ~~[If a license plate is lost, stolen, or mutilated, on payment of a \$1 fee the department shall issue a set of replacement plates.]~~

(i) A license plate with the letters "DV" may be personalized with up to four characters.

SECTION 179. Section 504.203(b), Transportation Code, is amended to read as follows:

(b) An application for license plates under this section must be accompanied by a written statement acknowledged ~~[signed]~~ by the administrator or manager of the institution, facility, or retirement community certifying that the institution, facility, or retirement community regularly transports, as a part of the services that the institution, facility, or retirement community provides, one or more eligible persons who reside in the institution, facility, or retirement community. The department shall determine the eligibility of the institution, facility, or retirement community on the evidence the applicant provides.

SECTION 180. Section 504.301, Transportation Code, is amended to read as follows:

Sec. 504.301. PROVISIONS GENERALLY APPLICABLE TO MILITARY SPECIALTY LICENSE PLATES. (a) Unless expressly provided by this subchapter or department rule:

(1) the department shall design specialty license plates for the military; and

(2) a person is not eligible to be issued a specialty license plate under this subchapter if the person was discharged from the armed forces under conditions less than honorable.

(b) Notwithstanding any other provision of this subchapter, the department may design the wording on a specialty license plate authorized by this subchapter to enhance the legibility and reflectivity of the license plate.

SECTION 181. Section 504.3011, Transportation Code, is amended to read as follows:

Sec. 504.3011. DESIGN OF CERTAIN LICENSE PLATES FOR THE MILITARY. ~~[(a) License plates issued under Section 504.303 must at a minimum bear a color depiction of the emblem of the appropriate branch of the United States armed forces.~~

~~[(b) License plates issued under Section 504.308(a) or 504.315(e), (f), or (g) must at a minimum bear a color depiction of the appropriate medal.~~

~~[(e)]~~ The department shall design military license plates that:

(1) bear a color depiction of the emblem of the appropriate branch of the United States armed forces or a color depiction of the appropriate medal as provided by the United States Department of Defense; and

(2) include the words "Honorably Discharged" for license plates issued to former members of the United States armed forces [to which this section applies in consultation with veterans organizations].

SECTION 182. Section 504.315(d), Transportation Code, is amended to read as follows:

(d) The department shall issue specialty license plates for survivors of the attack on Pearl Harbor on December 7, 1941. The license plates must include the words "Pearl Harbor Survivor." ~~[and must be consecutively numbered.]~~ A person is eligible if the person:

(1) served in the United States armed forces;

(2) was stationed in the Hawaiian Islands on December 7, 1941; and

(3) survived the attack on Pearl Harbor on December 7, 1941.

SECTION 183. Subchapter D, Chapter 504, Transportation Code, is amended by adding Section 504.317 to read as follows:

Sec. 504.317. SURVIVING SPOUSES OF DISABLED VETERANS SPECIALTY LICENSE PLATES. (a) In this section, "surviving spouse" means the individual married to a disabled veteran at the time of the veteran's death.

(b) The department shall issue specialty license plates for surviving spouses of disabled veterans of the United States armed forces.

SECTION 184. Subchapter E, Chapter 504, Transportation Code, is amended by adding Section 504.400 to read as follows:

Sec. 504.400. FEES FOR CERTAIN RESTRICTED PLATES. The department shall issue, without charge, not more than three sets of specialty license plates under this subchapter.

SECTION 185. Sections 504.401(a) and (c), Transportation Code, are amended to read as follows:

(a) The department shall issue ~~[without charge]~~ specialty license plates that include the words "State Official" to a state official. ~~[The license plates must include the words "State Official."]~~

(c) The registration remains ~~[license plates remain]~~ valid until December 31 of each year.

SECTION 186. Section 504.402(a), Transportation Code, is amended to read as follows:

(a) The department shall issue ~~[without charge]~~ specialty license plates to ~~[for]~~ members of congress, which ~~[- License plates issued under this section]~~ must include the words "U.S. Congress."

SECTION 187. Section 504.403(a), Transportation Code, is amended to read as follows:

(a) The department shall issue ~~[without charge]~~ specialty license plates for a current or visiting state or federal judge. The license plates must include the words "State Judge" or "U.S. Judge," as appropriate.

SECTION 188. Section 504.403(d)(2), Transportation Code, is amended to read as follows:

(2) "State judge" means:

- (A) a justice of the supreme court;
- (B) a judge of the court of criminal appeals;
- (C) a judge of a court of appeals of this state;
- (D) a district court judge;
- (E) a presiding judge of an administrative judicial district; or
- (F) a statutory county court judge.

SECTION 189. Section 504.404(a), Transportation Code, is amended to read as follows:

(a) The department shall issue ~~[without charge]~~ specialty license plates to ~~[for]~~ current federal administrative law judges that ~~[- The license plates shall]~~ bear the words "U.S. A. L. Judge."

SECTION 190. Section 504.405(a), Transportation Code, is amended to read as follows:

(a) The department shall issue ~~[without charge]~~ specialty license plates for current county judges of this state that ~~[- The license plates shall]~~ bear the words "County Judge."

SECTION 191. Section 504.406, Transportation Code, is amended to read as follows:

Sec. 504.406. TEXAS CONSTABLES. The department shall issue ~~[without charge]~~ specialty license plates for Texas constables that ~~[- The license plates shall]~~ bear the words "Texas Constable."

SECTION 192. Section 504.412, Transportation Code, is redesignated as Section 504.4061, Transportation Code, and amended to read as follows:

Sec. 504.4061 ~~[504.412]~~. FOREIGN ORGANIZATION VEHICLES. (a) The department shall issue specialty license plates for an instrumentality established by a foreign government recognized by the United States before January 1, 1979, that is without official representation or diplomatic relations with the United States. The license plates must include the words "Foreign Organization" and shall remain valid for seven ~~[five]~~ years.

(b) A person entitled to specialty license plates under this section may register the vehicle without payment of any fee paid for or at the time of registration.

SECTION 193. Section 504.509, Transportation Code, as effective September 1, 2011, is transferred to Subchapter E, Chapter 504, Transportation Code, and redesignated as Section 504.415, Transportation Code, to read as follows:

Sec. 504.415 ~~[504.509]~~. VEHICLES CARRYING MOBILE AMATEUR RADIO EQUIPMENT. The department shall issue specialty license plates for a person who holds an amateur radio station license issued by the Federal Communications Commission and who operates receiving and transmitting mobile amateur radio equipment. The license plates shall include the person's amateur call letters as assigned by the Federal Communications Commission. A person may register more than one vehicle equipped with mobile amateur radio equipment under this section, and the department shall issue license plates that include the same amateur call letters for each vehicle.

SECTION 194. The heading to Subchapter F, Chapter 504, Transportation Code, is amended to read as follows:

SUBCHAPTER F. SPECIALTY LICENSE PLATES WITH RESTRICTED DISTRIBUTION AND REGULAR LICENSE PLATE FEES ~~[FOR CERTAIN VEHICLES]~~

SECTION 195. (a) Section 504.501(b), Transportation Code, as effective September 1, 2011, is amended to read as follows:

(b) A person eligible for the license plates may instead use license plates that were issued by this state in the same year as the model year of the vehicle and are approved by the department ~~[if the plates are approved for the vehicle before January 1, 2011]~~. The department may require the attachment of a registration insignia to the license plate in a manner that does not affect the display of information originally on the license plate.

(b) This section takes effect September 1, 2011.

SECTION 196. Section 504.502(g), Transportation Code, is amended to read as follows:

(g) A person entitled to specialty license plates or to department approval under this section may register the vehicle without payment of any fees paid for or at the time of registration except the fee for the license plate. ~~[An owner of a vehicle registered under this subsection who violates this section commits an offense. An offense under this section is a misdemeanor punishable by a fine of not less than \$5 or more than \$200.]~~

SECTION 197. Section 504.503, Transportation Code, is amended to read as follows:

Sec. 504.503. MUNICIPAL, MOTOR, AND PRIVATE BUSES. ~~[(a)]~~ The department shall issue without charge specialty license plates for municipal buses, motor buses, and private buses. The license plates must include the words "City Bus," "Motor Bus," or "Private Bus," as appropriate.

~~[(b) In this section, "private bus" means a bus that:~~

~~[(1) is not operated for hire; and~~

~~[(2) is not classified as a municipal bus or a motor bus.]~~

SECTION 198. The heading to Section 504.506, Transportation Code, is amended to read as follows:

Sec. 504.506. ~~[CERTAIN]~~ LOG LOADER VEHICLES.

SECTION 199. Sections 504.407 and 504.408, Transportation Code, are transferred to Subchapter F, Chapter 504, Transportation Code, and redesignated as Sections 504.511 and 504.512, Transportation Code, to read as follows:

Sec. 504.511 ~~[504.407]~~. PEACE OFFICERS WOUNDED OR KILLED IN LINE OF DUTY. (a) The department shall issue specialty license plates for:

(1) a person wounded in the line of duty as a peace officer; or

(2) a surviving spouse, parent, brother, sister, or adult child, including an adopted child or stepchild, of a person killed in the line of duty as a peace officer.

(b) License plates issued under this section must include the words "To Protect and Serve" above an insignia depicting a yellow rose superimposed over the outline of a badge.

(c) The fee for issuance of the license plates is \$20.

(d) In this section, "peace officer" has the meaning assigned by Section 1.07, Penal Code.

Sec. 504.512 ~~[504.408]~~. GOLD STAR MOTHER, SPOUSE, OR FAMILY MEMBER. (a) The department shall issue a specialty license plate for the mother, surviving spouse, or immediate family member of a person who died while serving in the United States armed forces. License plates issued under this section must include the words "Gold Star Mother," "Gold Star Spouse," or "Gold Star Family" and a gold star. A person may not be issued more than one set of the license plates at a time.

(a-1) In this section "immediate family member" means the parent, child, or sibling of a person who died while serving in the United States armed forces.

(b) The fee for issuance of the license plates is \$10.

SECTION 200. Section 504.409, Transportation Code, as effective September 1, 2011, and as amended by Chapters 1136 (**HB 2553**) and 1381 (**SB 1616**), Acts of the 81st Legislature, Regular Session, 2009, is transferred to Subchapter F, Chapter 504, Transportation Code, redesignated as Section 504.513, Transportation Code, and reenacted and amended to read as follows:

Sec. 504.513 ~~[504.409]~~. FIREFIGHTERS. (a) The department shall issue specialty license plates for:

(1) volunteer firefighters certified by:

(A) the Texas Commission on Fire Protection; or

(B) the State Firemen's and Fire Marshals' Association of Texas;

and

(2) fire protection personnel as that term is defined by Section 419.021, Government Code.

(b) ~~(c)~~ A person may be issued not more than three sets of license plates.

SECTION 201. Sections 504.410 and 504.411, Transportation Code, are transferred to Subchapter F, Chapter 504, Transportation Code, redesignated as Sections 504.514 and 504.515, Transportation Code, and amended to read as follows:

Sec. 504.514 ~~[504.410]~~. EMERGENCY MEDICAL SERVICES PERSONNEL. (a) The department shall issue specialty license plates for emergency medical services personnel certified by the ~~[Texas]~~ Department of State Health Services under Subchapter C, Chapter 773, Health and Safety Code.

(b) The fee for issuance of the license plates is \$8.

(c) A person may be issued only one set of the license plates.

Sec. 504.515 ~~[504.411]~~. HONORARY CONSULS. (a) The department shall issue specialty license plates for a person who is an honorary consul authorized by the United States to perform consular duties. License plates issued under this section must include the words "Honorary Consul."

(b) The fee for issuance of the license plates is \$40.

SECTION 202. Subchapter F, Chapter 504, Transportation Code, is amended by adding Section 504.516 to read as follows:

Sec. 504.516. RENTAL TRAILER OR TRAVEL TRAILER FEE: TRAILER OR SEMITRAILER. (a) The department may issue specially designed license plates for rental trailers and travel trailers that include, as appropriate, the words "rental trailer" or "travel trailer."

(b) In this section:

(1) "Rental fleet" means vehicles that are designated in the manner prescribed by the department as a rental fleet.

(2) "Rental trailer" means a utility trailer.

(3) "Travel trailer" has the meaning assigned by Section 501.002.

SECTION 203. Section 504.6011, Transportation Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) The sponsor of a specialty license plate ~~[authorized to be issued under this subchapter before September 1, 2009,]~~ may contract with the private vendor authorized under Subchapter J for the marketing and sale of the specialty license plate.

(d) A sponsor of a specialty license plate authorized to be issued under this subchapter before November 19, 2009, may reestablish its specialty license plate under Sections 504.601 and 504.702 and be credited its previous deposit with the department if a contract entered into by the sponsor under Subsection (a) terminates.

SECTION 204. Section 504.614, Transportation Code, is amended by amending Subsection (a) and adding Subsection (b-1) to read as follows:

(a) The department may issue specialty license plates that include the name and insignia of a professional sports team located in this state. The department shall design the license plates in consultation with the professional sports team

and may enter a trademark license with the professional sports team or its league to implement this section. A license plate may be issued under this section only for a professional sports team that:

(1) certifies to the department that the requirements of Section 504.702 are met ~~[it has determined that at least 3,500 persons will apply for the plates];~~ and

(2) plays its home games in a facility constructed or operated, in whole or in part, with public funds.

(b-1) A public entity that receives money under Subsection (b) may contract with the private vendor under Section 504.6011 to distribute the entity's portion of the money in a manner other than that described by Subsection (b).

SECTION 205. Section 504.615, Transportation Code, is amended by amending Subsections (a) and (e) and adding Subsection (d-1) to read as follows:

(a) The department shall issue specialty license plates that include the name and insignia of a college. The department shall design the license plates in consultation with the applicable college. The department may issue a license plate under this section only for a college that certifies to the department that the requirements of Section 504.702 are met ~~[it has determined that at least 1,500 persons will apply for the plates]~~.

(d-1) If the fee is for the issuance of license plates for a college described by Subsection (e)(3), the money:

(1) shall be deposited to the credit of the Texas Higher Education Coordinating Board; and

(2) is supplementary and is not income for purposes of reducing general revenue appropriations to that board.

(e) In this section, "college" means:

(1) an institution of higher education as defined by Section 61.003, Education Code; ~~or~~

(2) a private college or university described by Section 61.222, Education Code; or

(3) a college or university that is not located in this state.

SECTION 206. Section 504.616(a), Transportation Code, is amended to read as follows:

(a) The department shall issue specialty license plates including the words "Texas Reads" that ~~["Texas Reads." The department shall design the license plates to]~~ incorporate one or more submissions from middle school students in a competition conducted by the department.

SECTION 207. The heading to Section 504.642, Transportation Code, is amended to read as follows:

Sec. 504.642. TEXAS COUNCIL OF [COUNTY] CHILD WELFARE BOARDS [BOARD] LICENSE PLATES.

SECTION 208. Section 504.642(a), Transportation Code, is amended to read as follows:

(a) The department shall issue Texas Council of [County] Child Welfare Boards specialty license plates. The department shall design the license plates in consultation with the Texas Council of Child Welfare Boards, Inc.

SECTION 209. Section 504.647(a), Transportation Code, is amended to read as follows:

(a) The department shall issue Fight Terrorism specialty license plates that ~~[- The license plates shall]~~ include a pentagon-shaped border surrounding:

- (1) the date "9-11-01" with the likeness of the World Trade Center towers forming the "11";
- (2) the likeness of the United States flag; and
- (3) the words "Fight Terrorism."

SECTION 210. Section 504.413, Transportation Code, is transferred to Subchapter G, Chapter 504, Transportation Code, and redesignated as Section 504.659, Transportation Code, to read as follows:

Sec. 504.659 ~~[504.413]~~. MEMBERS OF AMERICAN LEGION. (a) The department shall issue specialty license plates for members of the American Legion. The license plates shall include the words "Still Serving America" and the emblem of the American Legion. The department shall design the license plates in consultation with the American Legion.

(b) The fee for the license plates is \$30.

(c) After deduction of \$8 to reimburse the department for its administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of the American Legion, Department of Texas account in the state treasury. Money in the account may be used only by the Texas Veterans Commission in making grants to the American Legion Endowment Fund for scholarships and youth programs sponsored by the American Legion, Department of Texas.

SECTION 211. Section 504.702, Transportation Code, is amended by amending Subsection (b) and adding Subsections (e) and (f) to read as follows:

(b) The department may manufacture the specialty license plates only if a request for manufacture of the license plates is filed with the department. The request must be:

(1) made in ~~[on]~~ a manner prescribed ~~[form adopted]~~ by the department;

(2) filed before the fifth anniversary of the effective date of the law that authorizes the issuance of the specialty license plates; and

(3) accompanied by[-

~~[(A)]~~ a deposit of \$8,000~~[-or~~

~~[(B)] applications for issuance of at least 1,900 sets of the license plates plus the fees for issuance of that number of sets].~~

(e) The department may issue license plates under:

(1) Section 504.614 for a particular professional sports team only if \$8,000 has been deposited with the department for that sports team; or

(2) Section 504.615 for a particular institution of higher education or private college or university only if \$8,000 has been deposited with the department for that institution, college, or university.

(f) Money deposited with the department under Subsection (b)(3) or (e) shall be returned by the department to the person who made the deposit after 800 sets of plates have been issued.

SECTION 212. Sections 504.801(a), (b), (d), and (d-1), Transportation Code, as effective September 1, 2011, are amended to read as follows:

(a) The department may create new specialty license plates on its own initiative or on receipt of an application from a potential sponsor. A new specialty license plate created under this section must comply with each requirement of Section 504.702 unless the license is created by the department on its own initiative. The department may permit a specialty license plate created under this section to be personalized. The redesign of an existing specialty license plate at the request of a sponsor shall be treated like the issuance of a new specialty license plate~~[, except that the department may require a nonrefundable design fee].~~

(b) Any nonprofit entity ~~[person]~~ may submit an application to the department to sponsor a new specialty license plate ~~[by submitting an application to the department]~~. An application may nominate a state agency to receive funds derived from the issuance of the license plates. The application may also identify uses to which those funds should be appropriated.

(d) The fee for issuance of license plates created under this subchapter before November 19 ~~[September 1]~~, 2009, is \$30 unless the department sets a higher fee. This subsection does not apply to a specialty license plate marketed and sold by a private vendor at the request of the specialty license plate sponsor.

(d-1) The fee for issuance of license plates created under this subchapter on or after November 19 ~~[September 1]~~, 2009, is the amount established under Section 504.851.

SECTION 213. The heading to Section 504.802, Transportation Code, is amended to read as follows:

Sec. 504.802. MARKETING AND SALE BY PRIVATE VENDOR OF SPECIALTY LICENSE PLATES ~~[CREATED BEFORE SEPTEMBER 1, 2009]~~.

SECTION 214. Section 504.802, Transportation Code, is amended by amending Subsections (a) and (c) and adding Subsection (d) to read as follows:

(a) A sponsor of a specialty license plate created under this subchapter ~~[before September 1, 2009;]~~ may contract with the private vendor authorized under Subchapter J for the marketing and sale of the specialty license plate.

(c) Notwithstanding any other law, from each fee received from the issuance of a specialty license plate marketed and sold by the private vendor under this section, the department shall:

(1) deduct the administrative costs described by Section 504.801(e)(1);

(2) deposit the portion of the fee for the sale of the plate that the state would ordinarily receive under the contract described by Section 504.851(a) to the credit of:

(A) the specialty license plate fund, if the sponsor nominated a state agency to receive the funds; ~~[or]~~

(B) the general revenue fund, if the sponsor did not nominate a state agency to receive the funds or if there is no sponsor; or

(C) for a license plate issued under Section 504.614, the public entity that provides or provided funds for the professional sports team's facility;
and

(3) pay to the private vendor the remainder of the fee.

(d) A sponsor of a specialty license plate may reestablish its specialty license plate under Sections 504.601 and 504.702 and be credited its previous deposit with the department if a contract entered into by the sponsor under Subsection (a) terminates.

SECTION 215. Effective September 1, 2014, Section 504.851(a), Transportation Code, is amended to read as follows:

(a) The department ~~may~~ shall enter into a contract with the private vendor whose proposal is most advantageous to the state, as determined from competitive sealed proposals that satisfy the requirements of this section, for the marketing and sale of:

(1) personalized license plates; or

(2) with the agreement of the private vendor, other specialty license plates authorized by Subchapters G and I.

SECTION 216. Section 504.851, Transportation Code, is amended by amending Subsections (a-2), (c), (e), (f), and (h) and adding Subsections (a-3) and (m) to read as follows:

(a-2) Specialty license plates authorized for marketing and sale under Subsection (a) may be personalized and must include:

(1) specialty license plates created under Subchapters G and I on or after November 19 ~~September 1~~, 2009; and

(2) at the request of the specialty license plate sponsor, an existing specialty license plate created under Subchapters G and I before November 19 ~~September 1~~, 2009.

(a-3) The department may contract with the private vendor for the vendor to:

(1) host all or some of the specialty license plates on the vendor's website;

(2) process the purchase of specialty license plates hosted on the vendor's website and pay any additional transaction cost; and

(3) share in the personalization fee for the license plates hosted on the vendor's website.

(c) The board by rule shall establish the fees for the issuance or renewal of souvenir license plates, specialty license plates, or souvenir or specialty license plates that are personalized that are marketed and sold by the private vendor or hosted on the private vendor's website. The state's portion of the personalization fee may not be less than \$40 for each year issued. Other fees ~~Fees~~ must be reasonable and not less than the amounts necessary to allow the department to recover all reasonable costs to the department associated with the evaluation of the competitive sealed proposals received by the department and with the implementation and enforcement of the contract, including direct, indirect, and administrative costs. A fee established under this subsection is in addition to:

(1) the registration fee and any optional registration fee prescribed by this chapter for the vehicle for which specialty license plates are issued;

(2) any additional fee prescribed by this subchapter for the issuance of specialty license plates for that vehicle; and

(3) any additional fee prescribed by this subchapter for the issuance of personalized license plates for that vehicle.

(e) The portion of a contract with a private vendor regarding the marketing and sale of personalized license plates is payable only from amounts derived from the collection of the fee established under Subsection (b). The portion of a contract with a private vendor regarding the marketing, hosting, and sale of souvenir license plates, specialty license plates, or souvenir or specialty license plates that are personalized under Section 504.102 is payable only from amounts derived from the collection of the fee established under Subsection (c).

(f) The department may approve new design and color combinations for personalized or specialty license plates that are marketed and sold by a private vendor under a contract entered into with the private vendor. Each approved license plate design and color combination remains the property of the department.

(h) Subject to the limitations provided by Subsections (g) and (g-1), the department may disapprove a design, cancel a license plate, or require the discontinuation of a license plate design or color combination that is marketed, hosted, or ~~and~~ sold by a private vendor under contract at any time if the department determines that the disapproval, cancellation, or discontinuation is in the best interest of this state or the motoring public.

(m) If the private vendor ceases operation:

(1) the program may be operated temporarily by the department under new agreements with the license plate sponsors until another vendor is selected and begins operation; and

(2) the private vendor's share of the revenue is deposited to the credit of the general revenue fund.

SECTION 217. Section 504.853, Transportation Code, is amended to read as follows:

Sec. 504.853. SPECIALTY AND PERSONALIZED LICENSE PLATES ISSUED BEFORE NOVEMBER 19 ~~[SEPTEMBER 1]~~, 2009. (a) A specialty or personalized license plate issued before November 19 ~~[September 1]~~, 2009, may be issued for a subsequent registration period only if the applicant submits an application and pays the required fee for the applicable registration period. A person who is issued a personalized license plate has first priority on that license plate for each subsequent registration period for which the person submits a new application for that plate.

(b) Unless the board by rule adopts a higher fee or the license plate is not renewed annually, the ~~[The]~~ fee for issuance of a ~~[personalized]~~ license plate issued before November 19 ~~[September 1]~~, 2009, is:

(1) the fee provided for in Section 504.601 for a specialty license plate; and

(2) \$40 for a personalized license plate~~[, unless the director adopts by rule a higher fee].~~

(c) A person who is issued a specialty or personalized license plate by the department before November 19 ~~[September 1]~~, 2009, may:

(1) submit an application for the plate under Subsection (a) and pay the required fee for each subsequent registration period under Subsection (b); or

(2) purchase through the private vendor a license to display the alphanumeric pattern on a license plate for any term allowed by law.

(d) The department may not issue a replacement set of personalized license plates to the same person before the period set by rule ~~[sixth anniversary of the date of issuance]~~ unless the applicant for issuance of replacement plates pays an additional fee of \$30.

(e) Of each fee collected by the department under Subsection (b)(2) ~~[this section]~~:

(1) \$1.25 shall be used by the department to defray the cost of administering this section; and

(2) the remainder shall be deposited to the credit of the general revenue fund.

SECTION 218. Sections 504.854(a) and (b), Transportation Code, are amended to read as follows:

(a) The board by rule ~~[private vendor]~~ may provide for the private vendor to:

(1) sell at auction a license to display a unique alphanumeric pattern on a license plate for a period set by board rule;

(2) reserve an unissued alphanumeric pattern from the department for purposes of auctioning a license to display the pattern for a period set by board rule; and

(3) purchase from a customer an unexpired license to display an alphanumeric pattern for purposes of auction by the vendor.

(b) A [Only a] license to display an alphanumeric pattern purchased under this section [or a license to display an alphanumeric pattern sold by the private vendor under Section 504.853] may be transferred to another person without payment of the fee provided by Section 504.855. [The transferee is entitled to the same rights and privileges as the transferor.]

SECTION 219. Subchapter J, Chapter 504, Transportation Code, is amended by adding Section 504.855 to read as follows:

Sec. 504.855. TRANSFERABILITY OF CERTAIN PATTERNS. The board by rule may:

(1) authorize a person who purchases a license to display an alphanumeric pattern for a period of five years or more to transfer the license; and

(2) establish a transfer fee to be distributed in accordance with the contract with the private vendor.

SECTION 220. Chapter 504, Transportation Code, is amended by adding Subchapter K to read as follows:

SUBCHAPTER K. TRANSFER AND REMOVAL OF LICENSE PLATES

Sec. 504.901. TRANSFER AND REMOVAL OF LICENSE PLATES. (a) On the sale or transfer of a motor vehicle to a dealer who holds a general distinguishing number issued under Chapter 503, the dealer shall remove each license plate issued for the motor vehicle. A person may use the license plates

removed from a motor vehicle on a new motor vehicle purchased from a dealer after the person obtains the department's approval of a title and registration application.

(b) On the sale or transfer of a motor vehicle to a person who does not hold a general distinguishing number issued under Chapter 503, the seller may remove each license plate issued for the motor vehicle. The license plates may be transferred to another vehicle titled in the seller's name if the seller obtains:

(1) the department's approval of an application to transfer the license plates; and

(2) a new registration insignia for the motor vehicle.

(c) A license plate removed from a motor vehicle that is not transferred to another motor vehicle must be disposed of in a manner specified by the department.

(d) To be eligible for transfer, license plates must be appropriate for the class of vehicle to which the plates are being transferred.

SECTION 221. Chapter 504, Transportation Code, is amended by adding Subchapter L to read as follows:

SUBCHAPTER L. OFFENSES AND PENALTIES

Sec. 504.941. ANTIQUE VEHICLES; OFFENSE. (a) A person who violates Section 504.502 commits an offense. An offense under this section is a misdemeanor punishable by a fine of not less than \$5 or more than \$200.

(b) It is an affirmative defense to prosecution under this section that at the time of the offense the vehicle was en route to or from a location for the purpose of routine maintenance of the vehicle.

Sec. 504.942. LOG LOADER VEHICLES; PENALTIES. A vehicle operated in violation of Section 504.506 is considered to be operated or moved while unregistered and is immediately subject to the applicable fees and penalties prescribed by this chapter.

Sec. 504.943. OPERATION OF VEHICLE WITHOUT LICENSE PLATE.

(a) Except as provided by Subsection (b), a person commits an offense if the person operates on a public highway, during a registration period, a motor vehicle that does not display two license plates that:

(1) have been assigned by the department for the period; and

(2) comply with department rules regarding the placement of license plates.

(b) A person commits an offense if the person operates on a public highway during a registration period a road tractor, motorcycle, trailer, or semitrailer that does not display a license plate that:

(1) has been assigned by the department for the period; and

(2) complies with department rules regarding the placement of license plates.

(c) This section does not apply to a dealer operating a vehicle as provided by law.

(d) A court may dismiss a charge brought under Subsection (a)(1) if the defendant:

(1) remedies the defect before the defendant's first court appearance;
and

(2) pays an administrative fee not to exceed \$10.

SECTION 222. Section 502.408, Transportation Code, is transferred to Subchapter L, Chapter 504, Transportation Code, as added by this Act, redesignated as Section 504.944, Transportation Code, and amended to read as follows:

Sec. 504.944 ~~[502.408]~~. OPERATION OF VEHICLE WITH WRONG LICENSE PLATE. ~~[(a)]~~ A person commits an offense if the person operates, or as the owner permits another to operate, on a public highway a motor vehicle that has attached to it a number plate or registration insignia issued for a different vehicle. An offense under this section ~~[subsection]~~ is a misdemeanor punishable by a fine not to exceed \$200.

SECTION 223. Subchapter L, Chapter 504, Transportation Code, as added by this Act, is amended by adding Section 504.945 to read as follows:

Sec. 504.945. WRONG, FICTITIOUS, ALTERED, OR OBSCURED LICENSE PLATE. (a) A person commits an offense if the person attaches to or displays on a motor vehicle a license plate that:

(1) is issued for a different motor vehicle;
(2) is issued for the vehicle under any other motor vehicle law other than by the department;

(3) is assigned for a registration period other than the registration period in effect;

(4) is fictitious;
(5) has blurring or reflective matter that significantly impairs the readability of the name of the state in which the vehicle is registered or the letters or numbers of the license plate number at any time;

(6) has an attached illuminated device or sticker, decal, emblem, or other insignia that is not authorized by law and that interferes with the readability of the letters or numbers of the license plate number or the name of the state in which the vehicle is registered; or

(7) has a coating, covering, protective substance, or other material that:
(A) distorts angular visibility or detectability;
(B) alters or obscures one-half or more of the name of the state in which the vehicle is registered; or

(C) alters or obscures the letters or numbers of the license plate number or the color of the plate.

(b) Except as provided by Subsection (e), an offense under Subsection (a) is a misdemeanor punishable by a fine of not more than \$200, unless it is shown at the trial of the offense that the owner knowingly altered or made illegible the letters, numbers, and other identification marks, in which case the offense is a Class B misdemeanor.

(c) Subsection (a)(7) may not be construed to apply to:
(1) a trailer hitch installed on a vehicle in a normal or customary manner;

(2) a transponder, as defined by Section 228.057, that is attached to a vehicle in the manner required by the issuing authority;

(3) a wheelchair lift or wheelchair carrier that is attached to a vehicle in a normal or customary manner;

(4) a trailer being towed by a vehicle; or

(5) a bicycle or motorcycle rack that is attached to a vehicle in a normal or customary manner.

(d) A court may dismiss a charge brought under Subsection (a)(3), (5), (6), or (7) if the defendant:

(1) remedies the defect before the defendant's first court appearance; and

(2) pays an administrative fee not to exceed \$10.

(e) An offense under Subsection (a)(4) is a Class B misdemeanor.

SECTION 224. Subchapter A, Chapter 520, Transportation Code, is amended by adding Sections 520.003 and 520.004 to read as follows:

Sec. 520.003. RULES; WAIVER OF FEES. The department may adopt rules to administer this chapter, including rules that waive the payment of fees if a dealer has gone out of business and the applicant can show that fees were paid to the dealer.

Sec. 520.004. DEPARTMENT RESPONSIBILITIES. The department has jurisdiction over the registration and titling of, and the issuance of license plates to, motor vehicles in compliance with the applicable statutes. The board by rule:

(1) shall provide services that are reasonable, adequate, and efficient;

(2) shall establish standards for uniformity and service quality for counties and dealers licensed under Section 520.005; and

(3) may conduct public service education campaigns related to the department's functions.

SECTION 225. Section 501.137, Transportation Code, is transferred to Subchapter A, Chapter 520, Transportation Code, redesignated as Section 520.005, Transportation Code, and amended to read as follows:

Sec. 520.005 [501.137]. DUTY AND RESPONSIBILITIES OF COUNTY ASSESSOR-COLLECTOR. (a) Each county assessor-collector shall comply with Chapter 501 [this chapter].

(b) An assessor-collector who fails or refuses to comply with Chapter 501 [this chapter] is liable on the assessor-collector's official bond for resulting damages suffered by any person.

(c) Notwithstanding the requirements of Sections 520.008 and 520.0091, the assessor-collector may license franchised and non-franchised motor vehicle dealers to title and register motor vehicles in accordance with rules adopted under Section 520.004. The county assessor-collector may pay a fee to a motor vehicle dealer independent of or as part of the portion of the fees that would be collected by the county for each title and registration receipt issued.

SECTION 226. Section 502.109, Transportation Code, is transferred to Subchapter A, Chapter 520, Transportation Code, redesignated as Section 520.006, Transportation Code, and amended to read as follows:

Sec. 520.006 [~~502.109~~]. COMPENSATION OF ASSESSOR-COLLECTOR. (a) A county assessor-collector shall receive a fee of \$1.90 for each receipt issued under Chapter 502 [~~this chapter. If the assessor-collector may be compensated by fees, a fee received is compensation for services under this chapter. The assessor-collector shall deduct the fee weekly from the gross collections made under this chapter~~].

(a-1) A county collecting fees on behalf of a county that has been declared as a disaster area for purposes of Section 501.023 or 502.040 may retain the commission for fees collected, but shall allocate the fees to the county declared as a disaster area.

(b) A county assessor-collector who is compensated under this section shall pay the entire expense of issuing registration receipts and license plates under Chapter 501 or 502 [~~this chapter~~] from the compensation allowed under this section.

SECTION 227. Section 502.111, Transportation Code, is transferred to Subchapter A, Chapter 520, Transportation Code, redesignated as Section 520.007, Transportation Code, and amended to read as follows:

Sec. 520.007 [~~502.111~~]. COUNTY BRANCH OFFICES. (a) The commissioners court of a county may authorize the county assessor-collector to:

(1) establish a suboffice or branch office for vehicle registration at one or more locations in the county other than the county courthouse; or

(2) appoint a deputy to register vehicles in the same manner and with the same authority as though done in the office of the assessor-collector.

(b) The report of vehicles registered through a suboffice or branch office shall be made through the office of the county assessor-collector.

SECTION 228. Section 502.114, Transportation Code, is transferred to Subchapter A, Chapter 520, Transportation Code, redesignated as Section 520.008, Transportation Code, and amended to read as follows:

Sec. 520.008 [~~502.114~~]. FULL-SERVICE DEPUTIES. (a) A full-service deputy appointed under Section 520.0091 [~~502.112~~] shall accept any application for registration, registration renewal, or title transfer that the county assessor-collector may accept.

(b) A full-service deputy may charge and retain an additional motor vehicle registration fee not to exceed \$5 for each motor vehicle registration issued.

(c) A county assessor-collector may delegate to a full-service deputy, in the manner selected by the assessor-collector, the authority to use data processing equipment and software provided by the department for use in the titling and registration of motor vehicles. The department may not limit a county assessor-collector's ability to delegate the assessor-collector's functions regarding the titling and registration of motor vehicles to a qualified full-service deputy in the manner the assessor-collector considers appropriate.

SECTION 229. Section 502.113, Transportation Code, is transferred to Subchapter A, Chapter 520, Transportation Code, redesignated as Section 520.009, Transportation Code, and amended to read as follows:

Sec. 520.009 ~~[502.113]~~. LIMITED-SERVICE DEPUTIES. (a) A limited-service deputy appointed under Section 520.0091 ~~[502.112]~~ may only accept registration renewals ~~[renewal cards]~~ provided by the department and may not prepare or accept an application for title transfer.

(b) The county assessor-collector may pay a limited-service deputy an amount not to exceed the fee the assessor-collector could collect under Section 520.006(a) ~~[502.109(a)]~~ for each registration receipt issued. The commissioners court of the county may permit a limited-service deputy to charge and retain an additional fee not to exceed \$1 for each registration receipt issued by the deputy.

SECTION 230. Section 502.112, Transportation Code, is transferred to Subchapter A, Chapter 520, Transportation Code, and redesignated as Section 520.0091, Transportation Code, to read as follows:

Sec. 520.0091 ~~[502.112]~~. DEPUTY ASSESSOR-COLLECTORS. (a) A county assessor-collector, with the approval of the commissioners court of the county, may deputize an individual or business entity to:

(1) issue motor vehicle registration receipts as a limited-service deputy; or

(2) issue motor vehicle registration receipts and prepare or accept applications for title transfers as a full-service deputy.

(b) An individual or business entity is eligible to be deputized as a limited-service deputy if the person:

(1) is trained to issue registration receipts by the county assessor-collector; and

(2) posts a bond payable to the county assessor-collector:

(A) in an amount determined by the assessor-collector; and

(B) conditioned on the person's proper accounting and remittance of all fees the person collects.

(c) An individual or business entity is eligible to be deputized as a full-service deputy if the person:

(1) meets the requirements of Subsection (b); and

(2) has experience in title transfers.

(d) A person deputized under this section shall keep a separate account of the fees collected and a record of daily receipts.

SECTION 231. Section 501.136, Transportation Code, is transferred to Subchapter A, Chapter 520, Transportation Code, redesignated as Section 520.0092, Transportation Code, and amended to read as follows:

Sec. 520.0092 ~~[501.136]~~. ACTS BY DEPUTY COUNTY ASSESSOR-COLLECTOR. A deputy county assessor-collector, other than a limited service deputy appointed under Section 520.0091 ~~[502.112]~~, may perform the duties of an assessor-collector under Chapter 501 ~~[this chapter]~~.

SECTION 232. Section 520.002, Transportation Code, is redesignated as Section 520.0093, Transportation Code, and amended to read as follows:

Sec. 520.0093 ~~[520.002]~~. LEASE OF ADDITIONAL COMPUTER EQUIPMENT. (a) This section applies only to the lease of equipment to a county for the operation of the automated registration and titling ~~[title]~~ system in addition to the equipment provided by the department at no cost to the county under a formula prescribed by the department.

(b) On the request of the tax assessor-collector of a county, the department may enter into an agreement with the commissioners court of that county under which the department leases additional equipment to the county for the use of the tax assessor-collector in operating the automated registration and titling ~~[title]~~ system in that county.

(c) A county may install equipment leased under this section at offices of the county or of an agent of the county.

(d) Equipment leased under this section:

- (1) remains the property of the department; and
- (2) must be used primarily for the automated registration and titling ~~[title]~~ system.

(e) Under the agreement, the department shall charge ~~[the county]~~ an amount not less than the amount of the cost to the department to provide the additional equipment and any related services under the lease. All money collected under the lease shall be deposited to the credit of the state highway fund.

SECTION 233. The heading to Subchapter B, Chapter 520, Transportation Code, is amended to read as follows:

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS ~~[MOTOR NUMBER RECORD REQUIREMENTS]~~

SECTION 234. Subchapter B, Chapter 520, Transportation Code, is amended by adding Section 520.015 to read as follows:

Sec. 520.015. INFORMATION CONSOLIDATION STUDY. (a) In consultation with the Department of Public Safety, the department shall conduct a study on the consolidation of similar information that is collected separately by each agency. The study should include recommendations that sufficiently protect the privacy of the public and the security and integrity of information provided.

(b) The study must be completed not later than September 1, 2012.

SECTION 235. Section 520.036, Transportation Code, is transferred to Subchapter B, Chapter 520, Transportation Code, redesignated as Section 520.016, Transportation Code, and amended to read as follows:

Sec. 520.016 ~~[520.036]~~. GENERAL PENALTY. (a) A person commits an offense if the person violates this subchapter in a manner for which a specific penalty is not provided.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$50 and not more than \$200.

(c) This section does not apply to a violation of Section 520.006, 520.008, 520.009, 520.0091, or 520.0092.

SECTION 236. Section 520.051(5), Transportation Code, is amended to read as follows:

(5) "Title service record" means the written or electronic record for each transaction in which a motor vehicle title service receives compensation.

SECTION 237. Section 548.052, Transportation Code, is amended to read as follows:

Sec. 548.052. **VEHICLES NOT SUBJECT TO INSPECTION.** This chapter does not apply to:

(1) a trailer, semitrailer, pole trailer, or mobile home moving under or bearing a current factory-delivery license plate or current in-transit license plate;

(2) a vehicle moving under or bearing a paper dealer in-transit tag, machinery license, disaster license, parade license, prorate tab, one-trip permit, vehicle temporary transit permit, antique license, temporary 24-hour permit, or permit license;

(3) a trailer, semitrailer, pole trailer, or mobile home having an actual gross weight or registered gross weight of 4,500 pounds or less;

(4) farm machinery, road-building equipment, a farm trailer, or a vehicle required to display a slow-moving-vehicle emblem under Section 547.703;

(5) a former military vehicle, as defined by Section 504.502 [~~502.275~~];

(6) a vehicle qualified for a tax exemption under Section 152.092, Tax Code; or

(7) a vehicle for which a certificate of title has been issued but that is not required to be registered.

SECTION 238. The heading to Subchapter F, Chapter 551, Transportation Code, is amended to read as follows:

SUBCHAPTER F. GOLF CARTS AND UTILITY VEHICLES

SECTION 239. Section 551.401, Transportation Code, is amended to read as follows:

Sec. 551.401. **DEFINITIONS.** In this subchapter:

(1) "Golf [~~,-golf~~] cart" and "public highway" have the meanings assigned by Section 502.001.

(2) "Utility vehicle" means a motor vehicle that is not a golf cart or lawn mower and is:

(A) equipped with side-by-side seating for the use of the operator and a passenger;

(B) designed to propel itself with at least four tires in contact with the ground;

(C) designed by the manufacturer for off-highway use only; and

(D) designed by the manufacturer primarily for utility work and not for recreational purposes.

SECTION 240. The heading to Section 551.404, Transportation Code, is amended to read as follows:

Sec. 551.404. **OPERATION IN MUNICIPALITIES AND CERTAIN COUNTIES.**

SECTION 241. Section 551.404, Transportation Code, is amended by adding Subsection (a-1) and amending Subsection (b) to read as follows:

(a-1) In addition to the operation authorized by Section 551.403, the commissioners court of a county that borders or contains a portion of the Guadalupe River and contains a part of a barrier island that borders the Gulf of Mexico may allow an operator to operate a golf cart or utility vehicle on all or part of a public highway that:

(1) is located in the unincorporated area of the county; and

(2) has a speed limit of not more than 35 miles per hour.

(b) A golf cart or utility vehicle operated under this section ~~[Subsection (a)]~~ must have the following equipment:

(1) headlamps;

(2) taillamps;

(3) reflectors;

(4) parking brake; and

(5) mirrors.

SECTION 242. Section 681.005, Transportation Code, is amended to read as follows:

Sec. 681.005. DUTIES OF COUNTY ASSESSOR-COLLECTOR. Each county assessor-collector shall send to the department[~~;~~

~~[(4)]~~ each fee collected under Section 681.003, to be deposited in the state highway fund to defray the cost of providing the disabled parking placard[~~;~~ ~~and~~

~~[(2) a copy of each application for a disabled parking placard].~~

SECTION 243. Section 681.012(a-1), Transportation Code, is amended to read as follows:

(a-1) A peace officer may seize a disabled parking placard from a person who operates a vehicle on which a disabled parking placard is displayed if the peace officer determines by inspecting the person's driver's license or personal identification certificate that the disabled parking placard does not contain the first four digits of the driver's license number or personal identification certificate number and the initials of:

(1) the person operating the vehicle; ~~or~~

(2) the applicant on behalf of a person being transported by the vehicle;

or

(3) a person being transported by the vehicle.

SECTION 244. Section 386.251(c), Health and Safety Code, is amended to read as follows:

(c) The fund consists of:

(1) the amount of money deposited to the credit of the fund under:

(A) Section 386.056;

(B) Sections 151.0515 and 152.0215, Tax Code; and

(C) Sections 501.138, 502.358 ~~[502.1675]~~, and 548.5055,

Transportation Code; and

(2) grant money recaptured under Section 386.111(d) and Chapter 391.

SECTION 245. Section 2302.204, Occupations Code, is amended to read as follows:

Sec. 2302.204. CASUAL SALES. This chapter does not apply to a person who purchases fewer than five [~~three~~] nonrepairable motor vehicles or salvage motor vehicles from a salvage vehicle dealer, an insurance company or salvage pool operator in a casual sale at auction, except that:

(1) the board shall adopt rules as necessary to regulate casual sales by salvage vehicle dealers, insurance companies, or salvage pool operators and to enforce this section; and

(2) a salvage vehicle dealer, insurance company, or salvage pool operator who sells a motor vehicle in a casual sale shall comply with those rules and Subchapter E, Chapter 501, Transportation Code.

SECTION 246. (a) Subchapter H, Chapter 2302, Occupations Code, is amended by adding Section 2302.354 to read as follows:

Sec. 2302.354. ADMINISTRATIVE PENALTY. (a) The department may impose an administrative penalty against a person licensed under this chapter who violates this chapter or a rule or order adopted under this chapter.

(b) The penalty may not be less than \$50 or more than \$1,000, and each day a violation continues or occurs is a separate violation for the purpose of imposing a penalty. The amount of the penalty shall be based on:

(1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of the violation;

(2) the economic harm 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; and

(6) any other matter that justice requires.

(c) The person may stay enforcement during the time the order is under judicial review if the person pays the penalty to the court clerk or files a supersedeas bond with the court in the amount of the penalty. A person who cannot afford to pay the penalty or file the bond may stay enforcement by filing an affidavit in the manner required by the Texas Rules of Civil Procedure for a party who cannot afford to file security for costs, subject to the right of the department to contest the affidavit as provided by those rules.

(d) A proceeding to impose an administrative penalty is subject to Chapter 2001, Government Code.

(b) Section 2302.354, Occupations Code, as added by this section, applies only to a violation of Chapter 2302, Occupations Code, or a rule or order of the Texas Department of Motor Vehicles adopted under that chapter, committed on or after the effective date of this section. A violation committed before the effective date of this section is governed by the law in effect when the violation was committed, and the former law is continued in effect for that purpose.

(c) This section takes effect September 1, 2011.

SECTION 247. The following provisions of the Transportation Code are repealed:

(1) Sections 501.026 and 501.075;

(2) Sections 501.094 and 501.133;

(3) Sections 501.134(e), (f), and (i);

(4) Sections 502.0074, 502.0075, 502.008, 502.104, 502.105, 502.1535, 502.154, 502.175, 502.177, 502.206, 502.271, 502.2862, and 502.2971;

(5) Sections 502.403 and 502.405;

(6) Section 502.407(c);

(7) Section 502.412(c);

(8) Sections 502.452, 502.453, 502.455, and 502.456;

(9) Section 504.201(h);

(10) Section 504.316(b);

(11) Section 504.401(b);

(12) Section 504.402(b);

(13) Section 504.403(b);

(14) Section 504.404(b);

(15) Section 504.405(b);

(16) Section 504.502(j);

(17) Section 504.506(f);

(18) Section 504.507(c);

(19) Section 504.508(d);

(20) Sections 504.624, 504.629, 504.634, 504.643, 504.649, 504.650, 504.653, 504.655, and 504.701;

(21) Section 504.702(c);

(22) Section 504.851(k);

(23) Section 504.854(c);

(24) Sections 520.013 and 520.034; and

(25) the headings to Subchapters C and D, Chapter 520.

SECTION 248. (a) The change in law made by this Act applies only to an offense committed on or after January 1, 2012.

(b) An offense committed before January 1, 2012, is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this subsection, an offense was committed before January 1, 2012, if any element of the offense was committed before that date.

SECTION 249. To the extent of any conflict, this Act prevails over another Act of the 82nd Legislature, Regular Session, 2011, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 250. Except as otherwise provided by this Act, this Act takes effect January 1, 2012.

Representative Pickett moved to adopt the conference committee report on **HB 2357**.

The motion to adopt the conference committee report on **HB 2357** prevailed by (Record 1727): 139 Yeas, 6 Nays, 1 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anderson, C.; Anderson, R.; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; 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; 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; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; 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; 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 — Aycock; Carter; Kolkhorst; Miller, S.; Sheffield; Taylor, V.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Burnam; Miles.

Absent — Anchia; Menendez.

HB 2770 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative W. Smith submitted the following conference committee report on **HB 2770**:

Austin, Texas, May 28, 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 2770** 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
Ellis
Jackson
Nichols
Whitmire

W. Smith
Hunter
Phillips

On the part of the senate

On the part of the house

HB 2770, A bill to be entitled An Act relating to the powers and duties of navigation districts, port authorities, and certain municipalities.

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

SECTION 1. Sections 271.181(2) and (6), Local Government Code, are amended to read as follows:

(2) "Civil works project" means:

(A) roads, streets, bridges, utilities, water supply projects, water plants, wastewater plants, water distribution and wastewater conveyance facilities, desalination projects, wharves, docks, navigation channels, dredge material placement areas, airport runways and taxiways, storm drainage and flood control projects, or transit projects;

(B) types of projects or facilities related to those described by Paragraph (A) and associated with civil engineering construction; and

(C) buildings or structures that are incidental to projects or facilities that are described by Paragraphs (A) and (B) and that are primarily civil engineering construction projects.

(6) "Local governmental entity" means a municipality, a county, a river authority, a defense base development authority established under Chapter 379B, a board of trustees under Chapter 54, Transportation Code, a municipally owned water utility with a separate governing board appointed by the governing body of a municipality, or any other special district or authority authorized by law to enter into a public works contract for a civil works project. The term does not include a regional tollway authority created under Chapter 366, Transportation Code, a regional mobility authority created under Chapter 370, Transportation Code, or a water district or authority created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution, with a population of less than 50,000.

SECTION 2. Section 271.182, Local Government Code, as amended by Chapters 135 (**SB 1047**) and 725 (**SB 229**), Acts of the 81st Legislature, Regular Session, 2009, is reenacted and amended to read as follows:

Sec. 271.182. APPLICABILITY. (a) This subchapter applies to:

(1) a local governmental entity with a population of more than 100,000 within its geographic boundaries or service area;

(2) a board of trustees under Chapter 54, Transportation Code; and

(3) ~~[- (c) This subchapter applies to]~~ a municipally owned combined electric, water, and wastewater utility situated in an economically distressed area and located within 30 miles of the Lower Texas Gulf Coast.

(b) For purposes of Subsection (a), ~~[For this subchapter,]~~ "combined" means that the utilities are managed and controlled by one board whose members are appointed by the governing body of the municipality and that the financing of capital improvements is secured from the revenue ~~[revenues]~~ of all three utilities.

SECTION 3. Sections 271.186(a) and (b), Local Government Code, are amended to read as follows:

(a) During the first four years that this subchapter applies to a local governmental entity under Section 271.182:

(1) a local governmental entity with a population of 500,000 or more may, under this subchapter, enter into contracts for not more than three projects in any fiscal year;

(2) a local governmental entity with a population of 100,000 or more but less than 500,000 or a board of trustees under Chapter 54, Transportation Code, may, under this subchapter, enter into contracts for not more than two projects in any fiscal year; and

(3) a municipally owned water utility with a separate governing board appointed by the governing body of a municipality with a population of 500,000 or more may:

(A) independently enter into a contract for not more than one civil works project in any fiscal year; and

(B) enter into contracts for additional civil works projects in any fiscal year, but not more than the number of civil works projects prescribed by the limit in Subdivision (1) for the municipality, provided that:

(i) the additional contracts for the civil works projects entered into by the utility under this paragraph are allocated to the number of contracts the municipality that appoints the utility's governing board may enter under Subdivision (1); and

(ii) the governing body of the municipality must approve the contracts.

(b) After the period described by Subsection (a):

(1) a local governmental entity with a population of 500,000 or more may, under this subchapter, enter into contracts for not more than six projects in any fiscal year;

(2) a local governmental entity with a population of 100,000 or more but less than 500,000 or a board of trustees under Chapter 54, Transportation Code, may, under this subchapter, enter into contracts for not more than four projects in any fiscal year; and

(3) a municipally owned water utility with a separate governing board appointed by the governing body of a municipality with a population of 500,000 or more may:

(A) independently enter into contracts for not more than two civil works projects in any fiscal year; and

(B) enter into contracts for additional civil works projects in any fiscal year, but not more than the number of civil works projects prescribed by the limit in Subdivision (1) for the municipality, provided that:

(i) the additional contracts for the civil works projects entered into by the utility under this paragraph are allocated to the number of contracts the municipality that appoints the utility's governing board may enter under Subdivision (1); and

(ii) the governing body of the municipality must approve the contracts.

SECTION 4. Section 60.031, Water Code, is amended to read as follows:

Sec. 60.031. APPLICATION OF SUBCHAPTER. (a) The provisions of this subchapter shall apply to:

(1) any district not participating with the United States in a navigation project; or

(2) a district participating with the United States in a navigation project if the commission by resolution adopts:

(A) this subchapter; or

(B) sections of this subchapter under which the district will operate.

(b) For the purposes of Subsection (a)(2), a district that contracts with the United States for a navigation project under Subchapter F is considered to be participating with the United States in a navigation project while the contract is in effect.

SECTION 5. Section 60.038(b), Water Code, is amended to read as follows:

(b) Before a district may sell land, the commission shall determine by resolution that the land is no longer [Land which is sold or leased shall be declared surplus land and shall not be] needed for use by the district in connection with the development of a navigation project.

SECTION 6. Section 60.039, Water Code, is amended to read as follows:

Sec. 60.039. SURFACE LEASE [FOR NOT MORE THAN 30 YEARS].

(a) The commission may lease the surface of land for not more than 30 years by the entry of an order on the minutes of the commission and the execution of a lease in the manner provided by the original order. The lease may not be extended beyond the 30-year period by renewal, extension, or otherwise.

(b) The commission or the executive director of the district, or a person authorized by the commission or the executive director, may enter into a lease for a monthly tenancy or a tenancy from month to month. The lease term may only exceed one year if:

(1) the commission enters an order on the minutes; and

(2) the execution of the lease is in the manner provided by the original order for the lease.

SECTION 7. Subchapter D, Chapter 60, Water Code, is amended by adding Section 60.0725 to read as follows:

Sec. 60.0725. NUISANCES; POLLUTION. The commission may suppress and prevent nuisances, pollution, and improper disposal of materials on any district property to:

(1) accomplish the purposes stated in Section 60.071;

(2) protect other district property; or

(3) promote the health, safety, and general welfare of persons using other district property.

SECTION 8. Section 60.101, Water Code, is amended by amending Subsection (b) and adding Subsections (c) and (d) to read as follows:

(b) To the extent that the district incurs indebtedness, [(c)]bonded or otherwise,[(d)] for purposes of financing the above facilities which in turn are sold by installment sale or otherwise, the [said] indebtedness, principal and interest, may be paid only from the loan [(f)]or bond sale[(g)] proceeds and from revenues generated from the project financed by the indebtedness, and security for payment of the principal of and interest on [said] indebtedness shall be limited to a pledge of the project's revenues and the project's facilities including enlargements and additions [thereafter made].

(c) An installment sale under this section is not a loan of the district's credit or a grant of public money.

(d) A district may contract with a broker to sell a tract of land in the same manner as the commissioners court of a county under Section 263.008, Local Government Code.

SECTION 9. Section 60.120(a), Water Code, is amended to read as follows:

(a) A district acting under ~~[the provisions of]~~ this subchapter may enter into any contract, lease, or agreement necessary or convenient to carry out any of the powers granted in this subchapter, including a contract for purchase, lease for purchase, or other agreement for the use or acquisition of real property, or improvements to real property or the use or acquisition of personal property. The contract, lease, or agreement may be entered into with any person and any government or governmental agency including the United States, ~~[and]~~ the State of Texas, and a public facility corporation organized under Chapter 303, Local Government Code.

SECTION 10. Subchapter E, Chapter 60, Water Code, is amended by adding Section 60.124 to read as follows:

Sec. 60.124. GIFTS, GRANTS, AND DONATIONS. A district may accept a gift, grant, donation, or bequest of money or property from any source for any district purpose.

SECTION 11. Section 60.271(f), Water Code, is amended to read as follows:

(f) The district shall adopt payment procedures consistent with Section 105.074(g), Local Government Code. The designated officer of a district may draw a check on a depository only on a warrant signed by the presiding officer ~~[chairman]~~ and attested by the secretary of the district, or by a procedure adopted under this section.

SECTION 12. Section 60.403, Water Code, is amended by amending Subsection (c) and adding Subsection (e) to read as follows:

(c) One original, photocopy, or electronic copy of the purchase order shall be ~~[A purchase order must be executed in duplicate with one copy]~~ delivered to the person from whom the purchase is made and one original, photocopy, or electronic copy shall be retained ~~[remaining]~~ on file in the district or port authority in accordance with Subtitle C, Title 6, Local Government Code.

(e) A district may establish an electronic requisition system to perform some or all of the functions required by Subsections (b), (c), and (d). An electronic requisition system established under this subsection must electronically transmit data to and receive data from the financial system of the district in a manner that meets professional, regulatory, and statutory requirements and standards, including those relating to purchasing, auditing, and accounting.

SECTION 13. Section 60.4035(a), Water Code, as amended by Chapters 415 (**HB 1972**) and 1191 (**HB 3785**), Acts of the 81st Legislature, Regular Session, 2009, is reenacted to read as follows:

(a) Notwithstanding the competitive bidding requirements and proposal procedures of this subchapter and Subchapter O and the requirements of Sections 60.408(a), (b), (c), (d), and (e), the executive director of a district or an officer of a district authorized in writing by the port commission may make emergency

purchases or contracts or emergency amendments to existing purchase orders or contracts in an amount that exceeds the amount authorized under Section 60.403(a) for routine purchases or contracts if necessary:

(1) to preserve or protect the public health and safety of the residents of the district;

(2) to preserve the property of the district in the case of a public calamity;

(3) to repair unforeseen damage to the property of the district; or

(4) to respond to security directives issued by:

(A) the federal Department of Homeland Security, including the Transportation Security Administration;

(B) the United States Coast Guard;

(C) the federal Department of Transportation, including the Maritime Administration; or

(D) another federal or state agency responsible for domestic security.

SECTION 14. Sections 60.404(a) and (d), Water Code, as amended by Chapters 415 (**HB 1972**) and 1191 (**HB 3785**), Acts of the 81st Legislature, Regular Session, 2009, are reenacted to read as follows:

(a) If the materials, supplies, machinery, equipment, or other items to be purchased or contracted for are valued at an amount greater than the amount authorized under Section 60.403(a) for routine purchases or contracts, notice shall be published as provided by this section.

(d) The specifications must:

(1) describe in detail the item to be acquired;

(2) require that bids be sealed;

(3) require the attachment to the bid of a certified check, cashier's check, or bidders bond, if security is required in connection with the bid; and

(4) indicate whether a small business development program adopted by the port commission of the port authority or district applies to the purchase and, if so, where a copy of the program requirements may be obtained.

SECTION 15. Section 60.406(a), Water Code, as amended by Chapters 415 (**HB 1972**) and 1191 (**HB 3785**), Acts of the 81st Legislature, Regular Session, 2009, is reenacted to read as follows:

(a) Except as otherwise provided by Section 60.4035 or 60.412, before a district or port authority may purchase one or more items under a contract that will require an expenditure of more than the amount authorized under Section 60.403(a) for routine purchases or contracts, the port commission of that district or port authority must comply with the competitive bidding requirements or proposal procedures provided by this subchapter or Subchapter O. All bids must be sealed.

SECTION 16. Section 60.408(h), Water Code, is amended to read as follows:

(h) One original, photocopy, or electronic copy of a [A] contract, requisition, or purchase order valued at more than the amount authorized under Section 60.403(a) for routine purchases or contracts must be [issued in duplicate

~~with one copy]~~ delivered to the contractor and one original, photocopy, or electronic copy shall be retained [remaining] on file with the district or port authority in accordance with Subtitle C, Title 6, Local Government Code.

SECTION 17. Chapter 60, Water Code, is amended by adding Subchapter R to read as follows:

SUBCHAPTER R. CHARITABLE CONTRIBUTIONS

Sec. 60.551. DEFINITIONS. In this subchapter:

(1) "Charitable organization" means an organization that:

(A) is organized for charitable purposes under Chapter 22, Business Organizations Code, or holds a certificate of authority issued under that chapter;

(B) is exempt from taxation under Section 501(a) of the Internal Revenue Code of 1986 as an organization described in Section 501(c)(3) of that code and to which contributions are deductible for income tax purposes under Section 170 of that code;

(C) complies with all applicable federal nondiscrimination law, including Chapter 21, Title 42, United States Code;

(D) complies with all state statutes and rules relating to charitable organizations;

(E) is not a private foundation; and

(F) provides funds or programs for eligible services that directly or indirectly benefit the recipients.

(2) "District employee charitable campaign" means a campaign conducted in communities or areas in which district employees solicit contributions to an eligible charitable organization.

(3) "Eligible charitable organization" means a charitable organization eligible to participate in the district employee charitable campaign as provided by Section 60.561.

(4) "Eligible services" means services provided by a charitable organization that:

(A) benefit residents of this state, including children, youth, adults, elderly individuals, ill or infirm individuals, or individuals with a mental or physical disability, and consist of:

(i) human care, medical or other research in the field of human health, education, social adjustment, or rehabilitation;

(ii) relief for victims of natural disaster or other emergencies;

or

(iii) assistance to impoverished individuals in need of food, shelter, clothing, or other basic needs; or

(B) benefit this state, and consist of activities to:

(i) safeguard public health and the environment; or

(ii) help solve environmental problems.

(5) "Federation or fund" means a fund-raising entity that:

(A) is a charitable organization;

(B) acts as an agent for at least five charitable organizations;

(C) is not organized exclusively to solicit contributions from district employees; and

(D) is supported by voluntary contributions by the public and is:

(i) incorporated in this state and has an established physical presence in this state in the form of an office or service facility that is staffed at least 20 hours a week; or

(ii) incorporated outside this state, includes at least 10 affiliated charitable organizations, and has existed at least three years.

Sec. 60.552. AUTHORIZATION OF CAMPAIGN. (a) The commission or the executive director of a district may establish a program in the district to allow district employees to participate in a charitable campaign as provided by this subchapter.

(b) The commission or executive director of a district may adopt rules relating to the operation of a district employee charitable campaign as described in this subchapter.

Sec. 60.553. DEDUCTION AUTHORIZED. (a) A district employee may authorize a deduction each pay period from the employee's salary or wage payment for a charitable contribution as provided by this subchapter.

(b) An authorization must direct the district to distribute the deducted funds to a participating federation or fund.

(c) A deduction under this subchapter must be in the form prescribed by the district.

Sec. 60.554. VOLUNTARY PARTICIPATION. (a) Participation by a district employee in a state employee charitable campaign is voluntary. The district shall inform district employees that deductions are voluntary.

(b) The district shall adopt rules establishing a process for hearing employee complaints regarding coercive activity in a district employee charitable campaign.

Sec. 60.555. DESIGNATION OF AN ELIGIBLE CHARITABLE ORGANIZATION. (a) A district employee may designate in the authorization an eligible charitable organization to receive the deductions.

(b) If a district employee does not designate an eligible charitable organization, the employee's deductions shall be distributed to each participating federation or fund and eligible local charitable organization in the proportion that the deductions designated for that charitable organization bear to the total of designated deductions in the district employee charitable campaign.

Sec. 60.556. CONFIDENTIALITY. (a) Except as necessary to administer this subchapter or on written authorization of the employee, the following information is confidential:

(1) whether a district employee has authorized a deduction under this subchapter;

(2) the amount of the deduction; and

(3) the name of a federation or fund or charitable organization that a district employee has designated to receive contributions.

(b) The designation of a charitable organization by a district employee is not confidential if the employee executes a written pledge card or other document indicating that the employee wishes to receive an acknowledgement from the charitable organization.

(c) The district shall provide notice to district employees of the confidentiality provisions described by this section.

Sec. 60.557. REVOCATION OR CHANGE OF AUTHORIZATION. (a) A district employee may revoke or change an authorization by giving notice to the district.

(b) The notice must be in the form and manner prescribed by the district.

(c) A revocation or change takes effect on the date designated by the district, but not later than the 45th day after the date the district employee gives notice.

Sec. 60.558. DURATION OF DEDUCTION. (a) A deduction under this subchapter begins on the date designated by the district employee.

(b) A deduction under this subchapter, unless revoked or changed under Section 60.557, ends on the date designated by the district.

Sec. 60.559. FAIR AND EQUITABLE MANAGEMENT OF CAMPAIGN. A district employee charitable campaign must be managed fairly and equitably in accordance with this subchapter and the rules, policies, and procedures established by the district.

Sec. 60.560. CAMPAIGN POLICY AND MANAGEMENT. (a) The executive director of the district shall oversee the district employee charitable campaign and the district's employees who conduct the campaign.

(b) The executive director of the district and employees designated by the executive director of the district shall:

(1) determine the eligibility of a federation or fund and its affiliated agencies for participation in the district employee charitable campaign;

(2) develop a campaign plan, budget, and materials to be used in the campaign;

(3) coordinate and facilitate the campaign;

(4) ensure that all district employee charitable campaign activities are conducted fairly and equitably to promote unified solicitation on behalf of all participants; and

(5) perform other duties required by rules relating to the district employee charitable campaign.

Sec. 60.561. ELIGIBILITY OF CHARITABLE ORGANIZATIONS, FEDERATIONS, AND FUNDS FOR PARTICIPATION. (a) To be eligible to participate in a district employee charitable campaign, a charitable organization must:

(1) be governed by a voluntary board of citizens that meets at least twice each year to set policy and manage the affairs of the organization;

(2) if the organization's annual budget:

(A) does not exceed \$100,000, provide a completed Internal Revenue Service Form 990 and an accountant's review that offers full and open disclosure of the organization's internal operations; or

(B) exceeds \$100,000, be audited annually in accordance with generally accepted auditing standards of the American Institute of Certified Public Accountants; and

(3) not spend more than 25 percent of its annual revenue for administrative and fund-raising expenses.

(b) A federation or fund that seeks participation in a district employee charitable campaign must apply on behalf of itself and its affiliated agencies to the district during the eligibility determination period specified by the district. The district shall review each application and may approve a federation or fund for statewide participation only if the federation or fund qualifies as a charitable organization. The district may approve an affiliated charitable organization for participation only if the organization qualifies as a charitable organization.

(c) The district may use outside expertise and resources available to it, and rely on a certification of a charitable organization, or determination of qualification by a statewide employee charitable campaign under Section 659.146, Government Code, to assess the eligibility of a charitable organization that seeks to participate in a district employee charitable campaign.

(d) An appeal from a decision of the district shall be conducted in the manner prescribed by the commission. The appeals process must permit a charitable organization that is not approved for participation to apply for participation in a district employee charitable campaign.

Sec. 60.562. FUND-RAISING PRACTICES. The fund-raising practices of a participating charitable organization must:

(1) be truthful and consumer-oriented; and

(2) protect against:

(A) unauthorized use of a list of contributors to the organization;

(B) payment of commissions, kickbacks, finder fees, percentages, bonuses, or overrides for fund-raising;

(C) mailing of unordered merchandise or tickets with a request for money in return; and

(D) general phone solicitation of the public.

Sec. 60.563. LIMITATION ON USE OF CONTRIBUTIONS. (a) A participating charitable organization may use contributions under this subchapter only to provide eligible services or to fund a charitable organization that provides eligible services.

(b) A participating charitable organization may not use contributions under this subchapter to:

(1) directly or indirectly fund litigation; or

(2) make expenditures that would require the organization to register under Chapter 305, Government Code, if the organization were not an entity exempt from registration under that chapter.

Sec. 60.564. MISAPPLICATION OF CONTRIBUTIONS; AUDIT. (a) The district may obtain an audit of any participating charitable organization that the district reasonably believes has misapplied contributions under this subchapter.

(b) If an audit under this section reveals gross negligence or intentional misconduct on the part of a participating charitable organization, the district shall remove the charitable organization from the campaign. A charitable organization removed under this subsection is not eligible to participate in a district employee charitable campaign before the fifth anniversary of the date the charitable organization was removed.

(c) If an audit under this section reveals intentional misconduct on the part of a charitable organization, the district shall forward its findings to the appropriate law enforcement agency.

(d) The district may bring an action to recover misapplied contributions.

(e) If an investigation or lawsuit results in a recovery of misapplied contributions and there is not a judgment distributing the amounts recovered, the district shall determine the manner of refunding contributions to the appropriate district employees.

SECTION 18. Section 61.164(c), Water Code, is amended to read as follows:

(c) No franchise shall be granted until notice [after the franchise in its final form] is published [in full] at the expense of the applicant, once a week for three consecutive weeks in a daily newspaper of general circulation published inside the district. For the purposes of this subsection, notice consists of:

(1) the text of the franchise in full; or

(2) a descriptive caption stating the purpose of the franchise and the location at which a complete copy of the franchise may be obtained.

SECTION 19. Sections 62.107(a) and (c), Water Code, are amended to read as follows:

(a) Any district created under this chapter may acquire by gift, purchase, or condemnation and may own land adjacent or accessible to the navigable water and ports developed by it which may be necessary or required for any and all purposes incident to or necessary for the development and operation of the navigable water or ports within the district, or may be necessary or required for or in aid of the development of industries and businesses on the land.

(c) The acquisition of land for the purposes included in this section and the operation and industrial and business development of ports and waterways are a public purpose and a matter of public necessity.

SECTION 20. Section 62.122, Water Code, is amended to read as follows:

Sec. 62.122. DISPOSITION OF SALVAGE OR SURPLUS PERSONAL PROPERTY. (a) Except as provided by Subsection (b), the ~~[The]~~ commission may periodically dispose of surplus or salvage personal property in the same manner as the commissioners court of a county under Subchapter D, Chapter 263, Local Government Code.

(b) The commission may authorize the destruction or disposition of salvage or surplus property as worthless if the property is so worn, damaged, or obsolete that it has no value for the purpose for which it was originally intended, and the expense to the district to attempt to sell the property would be more than the proceeds from the sale.

SECTION 21. Section 63.178(c), Water Code, is amended to read as follows:

(c) Before the franchise is granted, the commission must approve the franchise by a majority vote at three separate meetings held at least one week apart and must publish notice. For the purposes of this subsection, notice must be published [the franchise in full,] at the expense of the applicant, once a week for three consecutive weeks in a newspaper published in the district. The notice must consist of:

- (1) the text of the franchise in full; or
- (2) a descriptive caption stating the purpose of the franchise and the location at which a complete copy of the franchise may be obtained.

SECTION 22. Chapter 97, Acts of the 40th Legislature, 1st Called Session, 1927, is amended by adding Section 9 to read as follows:

Sec. 9. SUNSET REVIEW. (a) The Port of Houston Authority is subject to review under Chapter 325, Government Code (Texas Sunset Act), as if it were a state agency but may not be abolished under that chapter. The review shall be conducted as if the authority were scheduled to be abolished September 1, 2013.

(b) The reviews must assess the authority's governance, management, and operating structure, and the authority's compliance with legislative requirements.

(c) The authority shall pay the cost incurred by the Sunset Advisory Commission in performing a review of the authority under this section. The Sunset Advisory Commission shall determine the cost, and the authority shall pay the amount promptly on receipt of a statement from the Sunset Advisory Commission detailing the cost.

(d) This section expires September 1, 2013.

SECTION 23. 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 covered by the law in effect when the contract was entered into, and the former law is continued in effect for that purpose.

SECTION 24. To the extent of any conflict, this Act prevails over another Act of the 82nd Legislature, Regular Session, 2011, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 25. Section 60.465, Water Code, is repealed.

SECTION 26. 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 W. Smith moved to adopt the conference committee report on **HB 2770**.

The motion to adopt the conference committee report on **HB 2770** prevailed by (Record 1728): 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; 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; 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, Excused — Burnam; Miles.

SB 293 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative J. Davis submitted the conference committee report on **SB 293**.

Representative J. Davis moved to adopt the conference committee report on **SB 293**.

The motion to adopt the conference committee report on **SB 293** prevailed by (Record 1729): 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; 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; Martinez Fischer; McClendon; Menendez; 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, Excused — Burnam; Miles.

Absent — Cain.

STATEMENT OF VOTE

When Record No. 1729 was taken, I was in the house but away from my desk. I would have voted yes.

Cain

SB 1010 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Workman submitted the conference committee report on **SB 1010**.

Representative Workman moved to adopt the conference committee report on **SB 1010**.

The motion to adopt the conference committee report on **SB 1010** prevailed by (Record 1730): 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; 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; 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, Excused — Burnam; Miles.

HB 242 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Craddick submitted the following conference committee report on **HB 242**:

Austin, Texas, May 28, 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 242** 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
Williams
Ogden

Craddick
Isaac
Cook
Martinez Fischer
Parker

On the part of the senate

On the part of the house

HB 242, A bill to be entitled An Act relating to the enforcement of public safety, including the privileges and duties of certain types of law enforcement officers.

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

SECTION 1. Section 411.023, Government Code, is amended by amending Subsection (b) and adding Subsection (g) to read as follows:

(b) A special ranger is subject to the orders of the commission and the governor for special duty to the same extent as other law enforcement officers provided for by this chapter, except that a special ranger may not enforce a law ~~[except one designed to protect life and property and may not enforce a law]~~ regulating the use of a state highway by a motor vehicle. A special ranger is not connected with a ranger company or uniformed unit of the department.

(g) The commission may call special rangers into service to:

- (1) preserve the peace and protect life and property;
- (2) conduct background investigations;
- (3) monitor sex offenders;
- (4) serve as part of two-officer units on patrol in high threat areas;
- (5) provide assistance to the department during disasters; and
- (6) investigate instances of reckless driving.

SECTION 2. Section 411.024, Government Code, is amended by amending Subsection (b) and adding Subsection (g) to read as follows:

(b) A special Texas Ranger is subject to the orders of the commission and the governor for special duty to the same extent as other law enforcement officers provided for by this chapter, except that a special Texas Ranger may not enforce a law ~~[except one designed to protect life and property and may not enforce a law]~~ regulating the use of a state highway by a motor vehicle. A special Texas Ranger is not connected with a ranger company or uniformed unit of the department.

(g) The commission may call special Texas Rangers into service to:

- (1) preserve the peace and protect life and property;
- (2) conduct background investigations;
- (3) monitor sex offenders;
- (4) serve as part of two-officer units on patrol in high threat areas;
- (5) provide assistance to the department during disasters; and
- (6) investigate instances of reckless driving.

SECTION 3. Subchapter H, Chapter 411, Government Code, is amended by adding Section 411.1992 to read as follows:

Sec. 411.1992. FORMER RESERVE LAW ENFORCEMENT OFFICERS.

(a) A person who served as a reserve law enforcement officer, as defined by Section 1701.001, Occupations Code, not less than a total of 15 years with a state or local law enforcement agency may apply for a license under this subchapter at any time.

(b) The applicant shall submit to the department two complete sets of legible and classifiable fingerprints and a sworn statement from the head of the law enforcement agency at which the applicant last served as a reserve law enforcement officer. A head of a law enforcement agency may not refuse to issue a statement under this subsection. If the applicant alleges that the statement is untrue, the department shall investigate the validity of the statement. The statement must include:

- (1) the name and rank of the applicant;
- (2) the status of the applicant;
- (3) whether the applicant was accused of misconduct at any time during the applicant's term of service and the disposition of that accusation;
- (4) a description of the physical and mental condition of the applicant;
- (5) a list of the types of weapons the applicant demonstrated proficiency with during the applicant's term of service; and
- (6) a recommendation from the agency head regarding the issuance of a license under this subchapter.

(c) The department may issue a license under this subchapter to an applicant under this section if the applicant was a reserve law enforcement officer for not less than a total of 15 years with a state or local law enforcement agency and is physically and emotionally fit to possess a handgun.

(d) An applicant under this section must pay a fee of \$25 for a license issued under this subchapter.

(e) A former reserve law enforcement officer who obtains a license as provided by this section must maintain, for the category of weapon licensed, the proficiency required for the person under Section 1701.357, Occupations Code. The department or the local law enforcement agency at which the person last served as a reserve law enforcement officer shall allow the person an opportunity to annually demonstrate the required proficiency. The proficiency shall be reported to the department on application and renewal.

(f) A license issued under this section expires as provided by Section 411.183.

SECTION 4. The heading to Section 1701.357, Occupations Code, is amended to read as follows:

Sec. 1701.357. WEAPONS PROFICIENCY FOR CERTAIN RETIRED PEACE OFFICERS AND FEDERAL LAW ENFORCEMENT OFFICERS AND FOR FORMER RESERVE LAW ENFORCEMENT OFFICERS.

SECTION 5. Section 1701.357, Occupations Code, is amended by amending Subsections (a), (b), (c), and (d) and adding Subsections (b-1), (c-1), and (j) to read as follows:

(a) This section applies only to:

- (1) a peace officer;
- (2) a federal criminal investigator designated as a special investigator under Article 2.122, Code of Criminal Procedure; ~~and~~
- (3) a qualified retired law enforcement officer who is entitled to carry a concealed firearm under 18 U.S.C. Section 926C and is not otherwise described by Subdivision (1) or (2); and
- (4) a former reserve law enforcement officer who served in that capacity not less than a total of 15 years with a state or local law enforcement agency.

(b) The head of a state or local law enforcement agency may allow an honorably retired peace officer an opportunity to demonstrate weapons proficiency if the retired officer provides to the agency a sworn affidavit stating that:

(1) the officer:

(A) honorably retired after not less than a total of 15 years of service as a commissioned officer with one or more state or local law enforcement agencies; or

(B) before completing 15 years of service as a commissioned officer with a state or local law enforcement agency, separated from employment with the agency or agencies and is a qualified retired law enforcement officer, as defined by 18 U.S.C. Section 926C;

(2) the officer's license as a commissioned officer was not revoked or suspended for any period during the officer's term of service as a commissioned officer; and

(3) the officer has no psychological or physical disability that would interfere with the officer's proper handling of a handgun.

(b-1) The head of a state or local law enforcement agency may allow a person who served as a reserve law enforcement officer as described by Subsection (a)(4) an opportunity to demonstrate weapons proficiency if the person provides to the agency a sworn affidavit stating that:

(1) the person served not less than a total of 15 years as a reserve law enforcement officer with a state or local law enforcement agency;

(2) the person's appointment as a reserve law enforcement officer was not revoked or suspended for any period during the person's term of service; and

(3) the person has no psychological or physical disability that would interfere with the person's proper handling of a handgun.

(c) The agency shall establish written procedures for the issuance or denial of a certificate of proficiency under this section. The agency shall issue the certificate to a retired officer who satisfactorily demonstrates weapons proficiency under Subsection (b), provides proof that the officer is entitled to receive a pension or annuity for service with a state or local law enforcement agency or is not entitled to receive a pension or annuity only because the law enforcement agency that employed the retired officer does not offer a pension or annuity to its retired employees, and satisfies the written procedures established by the agency. The agency shall issue the certificate to a person described by

Subsection (a)(4) who satisfactorily demonstrates weapons proficiency under Subsection (b-1). The agency shall maintain records of any person [retired officer] who holds a certificate issued under this section.

(c-1) For purposes of Subsection (c) [this subsection], proof that a retired officer is entitled to receive a pension or annuity or is not entitled to receive a pension or annuity only because the agency that last employed the retired officer does not offer a pension or annuity may include a retired peace officer identification card issued under Subchapter H, Chapter 614, Government Code.

(d) A certificate issued under this section expires on the second anniversary of the date the certificate was issued. A person [retired officer] to whom this section applies may request an annual evaluation of weapons proficiency and issuance of a certificate of proficiency as needed to comply with applicable federal or other laws.

(j) On request of a person described by Subsection (a)(4) who holds a certificate of proficiency under this section, the head of the state or local law enforcement agency at which the person last served as a reserve law enforcement officer shall issue to the person identification that indicates the person's status. An identification under this subsection must include a photograph of the person.

SECTION 6. Section 46.15(a), Penal Code, is amended to read as follows:

(a) Sections 46.02 and 46.03 do not apply to:

(1) peace officers or special investigators under Article 2.122, Code of Criminal Procedure, and neither section prohibits a peace officer or special investigator from carrying a weapon in this state, including in an establishment in this state serving the public, regardless of whether the peace officer or special investigator is engaged in the actual discharge of the officer's or investigator's duties while carrying the weapon;

(2) parole officers and neither section prohibits an officer from carrying a weapon in this state if the officer is:

(A) engaged in the actual discharge of the officer's duties while carrying the weapon; and

(B) in compliance with policies and procedures adopted by the Texas Department of Criminal Justice regarding the possession of a weapon by an officer while on duty;

(3) community supervision and corrections department officers appointed or employed under Section 76.004, Government Code, and neither section prohibits an officer from carrying a weapon in this state if the officer is:

(A) engaged in the actual discharge of the officer's duties while carrying the weapon; and

(B) authorized to carry a weapon under Section 76.0051, Government Code;

(4) a judge or justice of a federal court, the supreme court, the court of criminal appeals, a court of appeals, a district court, a criminal district court, a constitutional county court, a statutory county court, a justice court, or a municipal court who is licensed to carry a concealed handgun under Subchapter H, Chapter 411, Government Code;

(5) an honorably retired peace officer, qualified retired law enforcement officer, ~~or~~ federal criminal investigator, or former reserve law enforcement officer who holds a certificate of proficiency issued under Section 1701.357, Occupations Code, and is carrying a photo identification that is issued by a federal, state, or local law enforcement agency, as applicable, and that[-

~~(A)~~ verifies that the officer is:

(A) an honorably retired peace officer;

(B) a qualified retired law enforcement officer;

(C) a federal criminal investigator; or

(D) a former reserve law enforcement officer who has served in that capacity not less than a total of 15 years with a state or local law enforcement agency ~~[after not less than 15 years of service as a commissioned officer; and~~

~~(B) is issued by a state or local law enforcement agency];~~

(6) a district attorney, criminal district attorney, county attorney, or municipal attorney who is licensed to carry a concealed handgun under Subchapter H, Chapter 411, Government Code;

(7) an assistant district attorney, assistant criminal district attorney, or assistant county attorney who is licensed to carry a concealed handgun under Subchapter H, Chapter 411, Government Code;

(8) a bailiff designated by an active judicial officer as defined by Section 411.201, Government Code, who is:

(A) licensed to carry a concealed handgun under Chapter 411, Government Code; and

(B) engaged in escorting the judicial officer; or

(9) a juvenile probation officer who is authorized to carry a firearm under Section 142.006, Human Resources Code.

SECTION 7. Section 545.401, Transportation Code, is amended by amending Subsection (b) and adding Subsections (e), (f), (g), and (h) to read as follows:

(b) Except as provided by Subsection (e), an ~~[An]~~ offense under this section is a misdemeanor punishable by:

(1) a fine not to exceed \$200;

(2) confinement in county jail for not more than 30 days; or

(3) both the fine and the confinement.

(e) If an offense under this section results in the serious bodily injury or death of an operator or passenger of another motor vehicle, the offense is a Class B misdemeanor.

(f) The court may:

(1) order that the driver's license of a person convicted of an offense under Subsection (e) be suspended for not less than 30 days beginning on the date of conviction; and

(2) require the person to attend and present proof that the person successfully completed a driving safety course approved under Chapter 1001, Education Code, before the person's driver's license may be reinstated.

(g) A judge, acting under Article 42.12, Code of Criminal Procedure, who elects to place a defendant charged with an offense under this section on community supervision under that article may require the defendant to attend and present proof that the defendant successfully completed a driving safety course approved under Chapter 1001, Education Code.

(h) A person who is subject to prosecution under both this section and another section of this or any other code may be prosecuted under either or both sections.

SECTION 8. Section 545.425(a), Transportation Code, is amended by adding Subdivision (1-a) to read as follows:

(1-a) "Text-based communication" means a communication that is designed or intended to be transmitted between wireless communication devices for the purpose of manually communicating in a nonspoken manner with another person in a written medium. The term includes:

(A) a text message;

(B) an instant message; and

(C) e-mail.

SECTION 9. Section 545.425, Transportation Code, is amended by amending Subsection (b-1) and adding Subsections (c-1) and (c-2) to read as follows:

(b-1) A municipality, county, or other political subdivision that enforces Subsection (b) [this section] shall post a sign that complies with the standards described by this subsection at the entrance to each school crossing zone in the municipality, county, or other political subdivision. The department shall adopt standards that:

(1) allow for a sign required to be posted under this subsection to be attached to an existing sign at a minimal cost; and

(2) require that a sign required to be posted under this subsection inform an operator that:

(A) the use of a wireless communication device is prohibited in the school crossing zone; and

(B) the operator is subject to a fine if the operator uses a wireless communication device in the school crossing zone.

(c-1) An operator may not use a hand-held wireless communication device to read, write, or send a text-based communication while operating a motor vehicle unless the vehicle is stopped.

(c-2) An operator is not subject to prosecution under Subsection (c-1) if:

(1) the operator uses a hand-held wireless communication device:

(A) to read, select, or enter a telephone number or name for the purpose of making a telephone call;

(B) in conjunction with voice-operated technology or a hands-free device; or

(C) to navigate using a global positioning system; or

(2) the hand-held wireless communication device:

(A) is used by the operator to relay information between the operator and a dispatcher in the course of the operator's occupational duties; and

(B) is affixed to the vehicle.

SECTION 10. The changes in law made by this Act in amending Section 46.15, Penal Code, and Section 545.401, Transportation Code, apply only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is 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 11. This Act takes effect September 1, 2011.

HB 242 - POINT OF ORDER

Representative Simpson raised a point of order against further consideration of **HB 242** under Rule 8, Section 3 of the House Rules on the grounds that the bill contains more than one subject.

The speaker overruled the point of order.

Representative Craddick moved to adopt the conference committee report on **HB 242**.

The motion to adopt the conference committee report on **HB 242** prevailed by (Record 1731): 80 Yeas, 61 Nays, 4 Present, not voting.

Yeas — Alonzo; Alvarado; Anchia; Anderson, C.; Aycok; Bohac; Bonnen; Brown; Button; Callegari; Carter; Castro; Chisum; Coleman; Cook; Craddick; Crownover; Darby; Eiland; Eissler; Farrar; Frullo; Gonzales, V.; Gutierrez; Hamilton; Hardcastle; Harless; Hernandez Luna; Howard, C.; Howard, D.; Huberty; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Lewis; Lozano; Lucio; Margo; Martinez; Martinez Fischer; McClendon; Menendez; Miller, D.; Miller, S.; Morrison; Muñoz; Naishtat; Oliveira; Otto; Parker; Patrick; Perry; Phillips; Pickett; Quintanilla; Reynolds; Ritter; Rodriguez; Sheets; Shelton; Smith, W.; Smithee; Strama; Thompson; Torres; Truitt; Turner; Villarreal; Walle; White; Woolley; Workman; Zerwas.

Nays — Aliseda; Allen; Anderson, R.; Beck; Berman; Branch; Burkett; Cain; Christian; Creighton; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dutton; Elkins; Farias; Fletcher; Flynn; Gallego; Geren; Gonzales, L.; Gonzalez; Gooden; Guillen; Hancock; Harper-Brown; Hartnett; Hochberg; Hopson; Hughes; Johnson; King, T.; Larson; Laubenberg; Lavender; Legler; Lyne; Madden; Marquez; Murphy; Nash; Orr; Paxton; Peña; Pitts; Price; Raymond; Riddle; Schwertner; Scott; Sheffield; Simpson; Smith, T.; Solomons; Taylor, L.; Taylor, V.; Vo; Weber; Zedler.

Present, not voting — Mr. Speaker(C); Dukes; Mallory Caraway; Veasey.

Absent, Excused — Burnam; Miles.

Absent — Garza; Giddings; Hilderbran.

STATEMENTS OF VOTE

When Record No. 1731 was taken, my vote failed to register. I would have voted no.

Garza

When Record No. 1731 was taken, I was in the house but away from my desk. I would have voted yes.

Hilderbran

RULING ORDERED PRINTED

Representative Simpson moved to print the speaker's ruling on the point of order on **HB 242**.

The motion prevailed.

MOTION TO SUSPEND RULES

Representative Bonnen moved to suspend Rule 8, Section 13 of the House Rules and all necessary rules to consider bills that might be remaining on today's items eligible lists after the midnight deadline for consideration.

The motion was lost by (Record 1732): 94 Yeas, 53 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.; Eissler; Elkins; Fletcher; Flynn; Frullo; Garza; Geren; Gonzales, L.; Gooden; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hopson; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Lavender; Lewis; Lyne; Madden; Margo; McClendon; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Perry; Phillips; Pitts; Price; 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; Castro; Coleman; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Farias; Farrar; Gallego; Giddings; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hernandez Luna; Hochberg; Howard, D.; Johnson; King, S.; King, T.; Laubenberg; Legler; Lozano; Lucio; Mallory Caraway; Marquez; Martinez; Martinez Fischer; Menendez; Muñoz; Naishtat; Oliveira; Peña; Pickett; Quintanilla; Raymond; Reynolds; Riddle; Rodriguez; Simpson; Strama; Thompson; Turner; Veasey; Villarreal; Vo; Walle.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Burnam; Miles.

STATEMENTS OF VOTE

I was shown voting no on Record No. 1732. I intended to vote yes.

Legler

I was shown voting yes on Record No. 1732. I intended to vote no.

S. Miller

(Bonnen in the chair)

**HR 2703 - ADOPTED
(by V. Gonzales)**

The following privileged resolution was laid before the house:

HR 2703

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 1320** (the execution of written instruments relating to residential real estate transactions and deeds conveying residential real estate in connection with certain transactions involving residential real estate) to consider and take action on the following matters:

(1) House Rule 13, Sections 9(a)(3) and (4), are suspended to permit the committee to add text on a matter not in disagreement and not included in either the house or senate version of the bill by adding Subsection (d) to proposed Section 21.002, Business & Commerce Code, to read as follows:

(d) A purchaser or borrower who is a prevailing party in an action to void a deed under this section may recover reasonable and necessary attorney's fees.

Explanation: The addition of text is necessary to authorize purchasers or borrowers to recover reasonable and necessary attorney's fees in an action to void a deed under proposed Section 21.002, Business & Commerce Code.

(2) House Rule 13, Section 9(a)(2), is suspended to permit the committee to omit text which is not in disagreement in SECTION 1 of the bill, by omitting proposed Section 21.003, Business & Commerce Code, which reads as follows:

Sec. 21.003. CIVIL ACTION FOR DAMAGES. A person who violates Section 21.002 is liable to the purchaser or borrower for:

(1) actual damages;

(2) exemplary damages in an amount equal to or greater than \$5,000 and not more than three times the amount of actual damages;

(3) court costs; and

(4) reasonable attorney's fees.

Explanation: The omission of the text is necessary to remove a civil action for damages under proposed Chapter 21, Business & Commerce Code.

(3) 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 to proposed Chapter 21, Business & Commerce Code, to read as follows:

Sec. 21.003. ACTION BY ATTORNEY GENERAL. (a) The attorney general may bring an action on behalf of the state:

- (1) for injunctive relief to require compliance with this chapter;
- (2) to recover a civil penalty of \$500 for each violation of this chapter;

or

- (3) for both injunctive relief and to recover the civil penalty.

(b) The attorney general is entitled to recover reasonable expenses incurred in obtaining injunctive relief or a civil penalty, or both, under this section, including court costs and reasonable attorney's fees.

(c) The court may make such additional orders or judgments as are necessary to return to the purchaser a deed conveying residential real estate that the court finds was acquired by means of any violation of this chapter.

(d) In bringing or participating in an action under this chapter, the attorney general acts in the name of the state and does not establish an attorney-client relationship with another person, including a person to whom the attorney general requests that the court award relief.

(e) An action by the attorney general must be brought not later than the fourth anniversary of the date the deed was recorded.

Explanation: This change is necessary to authorize the attorney general to bring an action for injunctive relief or the recovery of a civil penalty and to allow a court to order the return of a deed to a purchaser under proposed Chapter 21, Business & Commerce Code.

(4) 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 section to the bill:

SECTION 2. Section 121.005(a), Civil Practice and Remedies Code, is amended to read as follows:

(a) An officer may not take the acknowledgment of a written instrument unless the officer knows or has satisfactory evidence that the acknowledging person is the person who executed the instrument and is described in it. An officer may accept, as satisfactory evidence of the identity of an acknowledging person, only:

- (1) the oath of a credible witness personally known to the officer; ~~or~~
- (2) a current identification card or other document issued by the federal government or any state government that contains the photograph and signature of the acknowledging person; or
- (3) with respect to a deed or other instrument relating to a residential real estate transaction, a current passport issued by a foreign country.

Explanation: This change is necessary to permit an officer to accept a foreign passport as proof of the identity of an individual acknowledging a written instrument relating to a residential real estate transaction.

HR 2703 was adopted by (Record 1733): 119 Yeas, 11 Nays, 3 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Berman; Bohac; Branch; Brown; Burkett; Button; Callegari; Carter; Castro; Chisum; Christian; Cook; Craddick; Creighton;

Crownover; Darby; Davis, J.; Davis, Y.; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Larson; Lewis; Lucio; Madden; Mallory Caraway; Margo; Marquez; Martinez; McClendon; Miller, D.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Nays — Beck; Cain; Davis, S.; Hughes; Landtroop; Laubenberg; Lavender; Miller, S.; Perry; Riddle; Zedler.

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

Absent, Excused — Burnam; Miles.

Absent — Coleman; Farrar; Giddings; Hernandez Luna; King, S.; Legler; Lozano; Lyne; Martinez Fischer; Menendez; Phillips; Turner; Veasey; White; Workman.

STATEMENTS OF VOTE

When Record No. 1733 was taken, I was in the house but away from my desk. I would have voted yes.

Martinez Fischer

When Record No. 1733 was taken, my vote failed to register. I would have voted no.

Phillips

SB 1320 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative V. Gonzales submitted the conference committee report on **SB 1320**.

Representative V. Gonzales moved to adopt the conference committee report on **SB 1320**.

The motion to adopt the conference committee report on **SB 1320** prevailed by (Record 1734): 112 Yeas, 15 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, R.; Berman; Bohac; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Castro; Chisum; Cook; Craddick; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Farias; Farrar; Frullo; Gallego; Garza; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Hartnett; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Larson; Lewis; Lozano; Madden; Mallory

Caraway; Margo; Marquez; Martinez Fischer; McClendon; Menendez; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Oliveira; Orr; Otto; Parker; Patrick; Peña; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Torres; Truitt; Turner; Vo; Walle; White; Woolley; Workman; Zedler; Zerwas.

Nays — Beck; Christian; Creighton; Davis, S.; Elkins; Landtroop; Laubenberg; Lavender; Legler; Lyne; Perry; Phillips; Sheffield; Taylor, V.; Weber.

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

Absent, Excused — Burnam; Miles.

Absent — Anderson, C.; Aycock; Coleman; Fletcher; Flynn; Geren; Gooden; Hancock; Harper-Brown; Hernandez Luna; Johnson; King, S.; Lucio; Martinez; Nash; Paxton; Thompson; Veasey; Villarreal.

STATEMENTS OF VOTE

When Record No. 1734 was taken, my vote failed to register. I would have voted no.

C. Anderson

When Record No. 1734 was taken, I was in the house but away from my desk. I would have voted yes.

Flynn

When Record No. 1734 was taken, I was in the house but away from my desk. I would have voted yes.

Geren

When Record No. 1734 was taken, I was in the house but away from my desk. I would have voted yes.

Gooden

I was shown voting yes on Record No. 1734. I intended to vote no.

Hilderbran

When Record No. 1734 was taken, I was in the house but away from my desk. I would have voted yes.

Nash

When Record No. 1734 was taken, I was in the house but away from my desk. I would have voted no.

Paxton

SB 1130 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Kleinschmidt submitted the conference committee report on **SB 1130**.

Representative Kleinschmidt moved to adopt the conference committee report on **SB 1130**.

The motion to adopt the conference committee report on **SB 1130** prevailed by (Record 1735): 140 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Bohac; Brown; Burkett; 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; 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; 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.; Smith, W.; Smithee; Solomons; Strama; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Burnam; Miles.

Absent — Berman; Branch; Crownover; Fletcher; Riddle; Taylor, L.

STATEMENTS OF VOTE

When Record No. 1735 was taken, I was in the house but away from my desk. I would have voted yes.

Crownover

When Record No. 1735 was taken, I was temporarily out of the house chamber. I would have voted yes.

Fletcher

When Record No. 1735 was taken, I was in the house but away from my desk. I would have voted yes.

L. Taylor

HB 3025 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Branch submitted the following conference committee report on **HB 3025**:

Austin, Texas, May 28, 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 3025** 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

Watson

Wentworth

Branch

Bonnen

D. Howard

Johnson

Ritter

On the part of the senate

On the part of the house

HB 3025, A bill to be entitled An Act relating to measures to facilitate the timely completion of degrees by students of public institutions of higher education.

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

SECTION 1. Subchapter Z, Chapter 51, Education Code, is amended by adding Section 51.9685 to read as follows:

Sec. 51.9685. REQUIRED FILING OF DEGREE PLAN. (a) In this section:

(1) "Degree plan" means a statement of the course of study requirements that an undergraduate student at an institution of higher education must complete in order to be awarded an associate or bachelor's degree from the institution.

(2) "Institution of higher education" has the meaning assigned by Section 61.003.

(b) Except as otherwise provided by Subsection (c), each student enrolled in an associate or bachelor's degree program at an institution of higher education shall file a degree plan with the institution not later than the end of the second regular semester or term immediately following the semester or term in which the student earned a cumulative total of 45 or more semester credit hours for coursework successfully completed by the student, including transfer courses, international baccalaureate courses, dual credit courses, and any other course for which the institution the student attends has awarded the student college course credit, including course credit awarded by examination.

(c) A student to whom this section applies who begins the student's first semester or term at an institution of higher education with 45 or more semester credit hours of course credit for courses described by Subsection (b) shall file a degree plan with the institution not later than the end of the student's second regular semester or term at the institution.

(d) An institution of higher education shall provide to students to whom this section applies information regarding the degree plan filing requirement under this section and options for consulting with an academic advisor for that purpose, which may include consultation through electronic communication.

(e) At each registration for a semester or term, a student who is required to have filed a degree plan under this section before that semester or term shall verify to the institution that:

- (1) the student has filed a degree plan with the institution; and
- (2) the courses for which the student is registering are consistent with that degree plan.

(f) If a student to whom this section applies does not timely file a degree plan, the institution of higher education in which the student is enrolled shall notify the student that the degree plan is required by law and require the student to consult with an academic advisor for that purpose in accordance with the consulting options under Subsection (d) during the semester or term in which the student receives the notice. The student may not obtain an official transcript from the institution until the student has filed a degree plan with the institution.

(g) The Texas Higher Education Coordinating Board, in consultation with institutions of higher education, may adopt rules as necessary for the administration of this section.

SECTION 2. Subchapter S, Chapter 61, Education Code, is amended by adding Section 61.833 to read as follows:

Sec. 61.833. CREDIT TRANSFER FOR ASSOCIATE DEGREE. (a) In this section, "lower-division institution of higher education" means a public junior college, public state college, or public technical institute.

(b) This section applies to a student enrolled in a general academic teaching institution who:

- (1) transferred to the institution from or previously attended a lower-division institution of higher education;
- (2) earned at least 30 credit hours for course work successfully completed at the lower-division institution of higher education; and
- (3) has earned a cumulative total of at least 90 credit hours for course work successfully completed.

(c) As soon as practicable after a student who is enrolled in a general academic teaching institution has met the criteria established by Subsection (b)(3), the institution by e-mail or other reasonable method shall request authorization from the student for the institution to release the student's transcript to the lower-division institution of higher education that the student previously attended for the purpose of determining whether the student has earned the credits required for an associate degree awarded by the lower-division institution of higher education. On receipt of a student's authorization under this subsection, the general academic teaching institution shall release the student's transcript to the lower-division institution of higher education.

(d) After receiving a student transcript from a general academic teaching institution under Subsection (c), a lower-division institution of higher education shall review the transcript and, if the lower-division institution of higher education determines the student has earned the credits required to receive an associate degree awarded by the lower-division institution of higher education, may award the student the degree.

SECTION 3. Section 51.9685, Education Code, as added by this Act, applies beginning with undergraduate students who initially enroll in a public institution of higher education for the 2012 fall semester.

SECTION 4. The change in law made by this Act by adding Section 61.833, Education Code, applies to a student who not earlier than the 2011 fall semester transfers to or otherwise initially enrolls in a general academic teaching institution after attending a lower-division institution of higher education.

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.

Representative Branch moved to adopt the conference committee report on **HB 3025**.

The motion to adopt the conference committee report on **HB 3025** prevailed by (Record 1736): 144 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Branch; Brown; Burkett; 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; 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; 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.; 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; Bonnen(C).

Absent, Excused — Burnam; Miles.

Absent — Johnson; Smith, W.

SB 694 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative W. Smith submitted the conference committee report on **SB 694**.

Representative W. Smith moved to adopt the conference committee report on **SB 694**.

The motion to adopt the conference committee report on **SB 694** prevailed by (Record 1737): 119 Yeas, 21 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, R.; Aycock; Berman; Bohac; Branch; Brown; Button; Cain; Callegari; Castro; Chisum; Coleman; Cook; Craddick; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hunter; Jackson; Johnson; Keffer; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Larson; Laubenberger; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Mallory Caraway; Margo; Marquez; Martinez Fischer; Menendez; Miller, D.; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, V.; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Woolley; Workman; Zerwas.

Nays — Anderson, C.; Beck; Burkett; Carter; Christian; Creighton; Garza; Hancock; Hughes; Isaac; King, P.; Landtroop; Madden; Miller, S.; Morrison; Perry; Sheffield; Simpson; Weber; White; Zedler.

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

Absent, Excused — Burnam; Miles.

Absent — Gallego; Harper-Brown; Martinez; McClendon; Taylor, L.; Thompson.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1737. I intended to vote no.

Cain

I was shown voting yes on Record No. 1737. I intended to vote no.

Flynn

I was shown voting yes on Record No. 1737. I intended to vote present, not voting.

Harless

When Record No. 1737 was taken, I was in the house but away from my desk. I would have voted yes.

Harper-Brown

When Record No. 1737 was taken, I was in the house but away from my desk. I would have voted no.

McClendon

When Record No. 1737 was taken, I was in the house but away from my desk. I would have voted yes.

L. Taylor

HB 3328 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Keffer submitted the following conference committee report on **HB 3328**:

Austin, Texas, May 28, 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 3328** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Fraser

Eltife

Hegar

Hinojosa

Nelson

On the part of the senate

Keffer

Crownover

Parker

Strama

Burnam

On the part of the house

HB 3328, A bill to be entitled An Act relating to the disclosure of the composition of hydraulic fracturing fluids used in hydraulic fracturing treatments.

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

SECTION 1. Chapter 91, Natural Resources Code, is amended by adding Subchapter S to read as follows:

**SUBCHAPTER S. DISCLOSURE OF COMPOSITION OF HYDRAULIC
FRACTURING FLUIDS**

**Sec. 91.851. DISCLOSURE OF COMPOSITION OF HYDRAULIC
FRACTURING FLUIDS.** (a) The commission by rule shall:

(1) require an operator of a well on which a hydraulic fracturing treatment is performed to:

(A) complete the form posted on the hydraulic fracturing chemical registry Internet website of the Ground Water Protection Council and the Interstate Oil and Gas Compact Commission with regard to the well;

(B) include in the form completed under Paragraph (A):

(i) the total volume of water used in the hydraulic fracturing treatment; and

(ii) each chemical ingredient that is subject to the requirements of 29 C.F.R. Section 1910.1200(g)(2), as provided by a service company or chemical supplier or by the operator, if the operator provides its own chemical ingredients;

(C) post the completed form described by Paragraph (A) on the website described by that paragraph or, if the website is discontinued or permanently inoperable, post the completed form on another publicly accessible Internet website specified by the commission;

(D) submit the completed form described by Paragraph (A) to the commission with the well completion report for the well; and

(E) in addition to the completed form specified in Paragraph (D), provide to the commission a list, to be made available on a publicly accessible website, of all other chemical ingredients not listed on the completed form that were intentionally included and used for the purpose of creating a hydraulic fracturing treatment for the well. The commission rule shall ensure that an operator, service company, or supplier is not responsible for disclosing ingredients that:

(i) were not purposely added to the hydraulic fracturing treatment;

(ii) occur incidentally or are otherwise unintentionally present in the treatment; or

(iii) in the case of the operator, are not disclosed to the operator by a service company or supplier. The commission rule shall not require that the ingredients be identified based on the additive in which they are found or that the concentration of such ingredients be provided;

(2) require a service company that performs a hydraulic fracturing treatment on a well or a supplier of an additive used in a hydraulic fracturing treatment on a well to provide the operator of the well with the information necessary for the operator to comply with Subdivision (1);

(3) prescribe a process by which an entity required to comply with Subdivision (1) or (2) may withhold and declare certain information as a trade secret for purposes of Section 552.110, Government Code, including the identity and amount of the chemical ingredient used in a hydraulic fracturing treatment;

(4) require a person who desires to challenge a claim of entitlement to trade secret protection under Subdivision (3) to file the challenge not later than the second anniversary of the date the relevant well completion report is filed with the commission;

(5) limit the persons who may challenge a claim of entitlement to trade secret protection under Subdivision (3) to:

(A) the landowner on whose property the relevant well is located;

(B) a landowner who owns property adjacent to property described by Paragraph (A); or

(C) a department or agency of this state with jurisdiction over a matter to which the claimed trade secret is relevant;

(6) require, in the event of a trade secret challenge, that the commission promptly notify the service company performing the hydraulic fracturing treatment on the relevant well, the supplier of the additive or chemical ingredient for which the trade secret claim is made, or any other owner of the trade secret being challenged and provide the owner an opportunity to substantiate its trade secret claim; and

(7) prescribe a process, consistent with 29 C.F.R. Section 1910.1200, for an entity described by Subdivision (1) or (2) to provide information, including information that is a trade secret as defined by Appendix D to 29 C.F.R. Section 1910.1200, to a health professional or emergency responder who needs the information in accordance with Subsection (i) of that section.

(b) The protection and challenge of trade secrets under this section is governed by Chapter 552, Government Code.

SECTION 2. Subchapter S, Chapter 91, Natural Resources Code, as added by this Act, applies only to a hydraulic fracturing treatment performed on a well for which an initial drilling permit is issued on or after the date the initial rules adopted by the Railroad Commission of Texas under that subchapter take effect. A hydraulic fracturing treatment performed on a well for which an initial drilling permit is issued before the date the initial rules take effect is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 3. The Railroad Commission of Texas shall adopt rules under Subchapter S, Chapter 91, Natural Resources Code, as added by this Act, not later than July 1, 2012, with the exception of those rules under Paragraph (E), which are to be adopted not later than July 1, 2013.

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

HB 3328 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE VEASEY: Is it correct that, under this bill, that the Texas Oil and Gas Commission—I'm sorry, I mean the Texas Railroad Commission—

REPRESENTATIVE KEFFER: Unfortunately, you're right.

VEASEY: —must do rulemaking no later than July 1, 2012, for most of the bills?

KEFFER: Yes, it is.

VEASEY: And also, is it correct that for Subsection (e) of the bill, relating to the disclosure of non-MSDF chemicals, a rulemaking must be done no later than July 1, 2013?

KEFFER: No later than, yes.

VEASEY: Okay. And also, is it correct that nothing would prevent the Railroad Commission from completing rulemaking for all of the bills by including Subsection (e) before July 1, 2012?

KEFFER: Yes. In fact, in visiting with Chairwoman Jones and Commissioner Porter to ensure that all provisions will be in effect before July 1, 2012, and that all—and is absolutely capable of ensuring well before July 1, 2012.

VEASEY: Okay, good, good. And so, is it correct that it is possible that the rulemaking could be complete by the date specified in the original bill passed by the house, which was January 1, 2012?

KEFFER: Yes. In fact, rulemaking is very straightforward and there is no reason that it should not be completed by January 1, 2012, or sooner.

REMARKS ORDERED PRINTED

Representative Veasey moved to print remarks between Representative Keffer and Representative Veasey.

The motion prevailed.

Representative Keffer moved to adopt the conference committee report on **HB 3328**.

The motion to adopt the conference committee report on **HB 3328** prevailed by (Record 1738): 137 Yeas, 8 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Coleman; Cook; Crownover; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; 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; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; 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; Zerwas.

Nays — Craddick; Creighton; Darby; Hughes; Legler; Paxton; Sheffield; Zedler.

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

Absent, Excused — Burnam; Miles.

Absent — Giddings.

STATEMENT OF VOTE

I was shown voting yes on Record No. 1738. I intended to vote no.

C. Anderson

HB 335 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Shelton submitted the following conference committee report on **HB 335**:

Austin, Texas, May 28, 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 335** 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
Ellis
Patrick
Nelson

Shelton
Thompson
Creighton
Branch
Darby

On the part of the senate

On the part of the house

HB 335, A bill to be entitled An Act relating to implementation and requirements of certain health care reform laws.

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

SECTION 1. Chapter 322, Government Code, is amended by adding Section 322.021 to read as follows:

Sec. 322.021. MANDATORY HEALTH CARE REFORM REPORTS FROM STATE AGENCIES. (a) In this section, "state agency" has the meaning assigned by Section 2056.001.

(b) A state agency shall submit a report described by Subsection (d) to:

(1) the board;

(2) the governor;

(3) the lieutenant governor;

(4) the speaker of the house of representatives; and

(5) the appropriate standing legislative committees having jurisdiction over issues relating to health care reform.

(c) A state agency must submit a report described by Subsection (d) of an expenditure incurred in implementing a provision of a federal health care reform law if:

(1) the provision:

(A) requires a person to purchase health insurance or similar health coverage;

(B) requires an employer to provide health insurance or similar health coverage to or for employees;

(C) imposes a penalty on an employer who does not provide health insurance or similar health coverage to or for employees;

(D) expands eligibility for the state Medicaid program or state child health plan program;

(E) creates a health insurance coverage mandate affecting a person;

or
(F) creates a new health insurance or similar health coverage program that is administered by this state or a political subdivision of this state; or

(2) the board, in the exercise of the board's duties under this chapter, determines that a report about the expenditure is necessary to a comprehensive and continuing review of a program or operation of a state agency.

(d) A report required under Subsection (b) must:

(1) cite the specific federal statute or regulation that requires the state to implement the provision;

(2) state whether the provision requires or allows a state waiver or option;

(3) describe the state action required to implement the provision;

(4) identify the individuals, legal entities, and state agencies that may be impacted by the implementation of or refusal to implement the provision; and

(5) estimate the cost to be incurred by the state to implement the provision.

SECTION 2. The changes in law made by Section 322.021, Government Code, as added by this Act, apply only to a provision of federal health care reform law implemented by a state agency on or after the effective date of this Act. A provision of federal health care reform law implemented by a state agency before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2011.

Representative Shelton moved to adopt the conference committee report on **HB 335**.

The motion to adopt the conference committee report on **HB 335** prevailed by (Record 1739): 139 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Brown; Burkett; 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, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; 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.; 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; Bonnen(C).

Absent, Excused — Burnam; Miles.

Absent — Branch; Davis, S.; Howard, C.; Lavender; Legler; Murphy; Smith, W.

STATEMENTS OF VOTE

When Record No. 1739 was taken, I was in the house but away from my desk. I would have voted yes.

Branch

When Record No. 1739 was taken, I was in the house but away from my desk. I would have voted yes.

S. Davis

When Record No. 1739 was taken, I was in the house but away from my desk. I would have voted yes.

Lavender

HB 3468 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Patrick submitted the following conference committee report on **HB 3468**:

Austin, Texas, May 28, 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 3468** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Shapiro	Patrick
Carona	Aycock
Nelson	Branch
Seliger	D. Howard
West	Shelton
On the part of the senate	On the part of the house

HB 3468, A bill to be entitled An Act relating to the assessment of public school students for college readiness and developmental education courses to prepare students for college-level coursework.

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

SECTION 1. Subchapter A, Chapter 28, Education Code, is amended by adding Section 28.0141 to read as follows:

Sec. 28.0141. STUDY AND REPORT ON EARLY COLLEGE READINESS ASSESSMENTS. (a) The agency, in consultation with the Texas Higher Education Coordinating Board, shall conduct a study of best practices for and existing programs offering early assessments of high school students in order to determine college readiness, identify any deficiencies in college readiness, and provide intervention to address any deficiencies before high school graduation. In conducting the study, the agency, in consultation with the coordinating board, shall review:

(1) various assessments, including end-of-course assessment instruments under Section 39.023(c), each assessment currently used under Section 51.3062, and any assessment being proposed as a statewide model by the coordinating board under Section 51.3062(v), for identifying students who need additional assistance in preparing for college;

(2) various early intervention models, including:

(A) summer bridge programs;

(B) college preparatory courses for credit toward high school graduation;

(C) developmental education programs, including college readiness programs under Section 39.234, and college study skills courses; and

(D) dual credit courses;

(3) the costs associated with different assessments and early intervention models; and

(4) the effectiveness of different assessments and early intervention models in preparing students for college coursework for which course credit may be earned.

(b) Not later than December 1, 2012, the agency, in consultation with the Texas Higher Education Coordinating Board, public institutions of higher education, and school districts, shall submit to the governor, the lieutenant governor, the speaker of the house of representatives, and the presiding officer of each legislative standing committee with primary jurisdiction over primary and secondary education, higher education, or state appropriations a written report that contains recommendations for promoting and implementing early assessments of college readiness that are of a diagnostic nature and early intervention models for preparing high school students for college coursework for which course credit may be earned.

(c) This section expires January 1, 2013.

SECTION 2. Subchapter H, Chapter 29, Education Code, is amended by adding Section 29.2531 to read as follows:

Sec. 29.2531. ADULT EDUCATION ASSESSMENT. The Texas Education Agency shall, in consultation with the Texas Higher Education Coordinating Board, review the standardized assessment mechanism required under Section 29.252(a)(8) and recommend any changes necessary to align the assessment with the assessments designated under Section 51.3062 to allow for the proper placement of a student in an adult basic education course or to provide the student with the proper developmental or English as a second language coursework, as appropriate.

SECTION 3. Section 51.3062, Education Code, is amended by adding Subsections (t), (t-1), (u), (v), and (w) to read as follows:

(t) To allow a student to complete any necessary developmental coursework in the most efficient and cost-effective manner, the board shall encourage institutions of higher education to offer various types of developmental coursework that address various levels of deficiency in readiness to perform

college coursework for which course credit may be earned, as determined on the basis of assessments as described by Subsection (f). The types of developmental coursework may include:

- (1) course-based programs;
- (2) non-course-based programs, such as advising programs;
- (3) module format programs;
- (4) competency-based education programs; and
- (5) programs under which the student is pairing or taking concurrently a developmental education course and another course in the same subject area for which course credit may be earned.

(t-1) The board may adopt rules as necessary to implement Subsection (t).

(u) The board, in consultation with institutions of higher education, shall use evidence-based studies and existing data to study and analyze:

(1) assessment instruments that are currently used or could be used by institutions to comply with this section, including the diagnostic reliability and cost-effectiveness of those assessment instruments;

(2) differentiated placements for developmental coursework based on a student's demonstrated proficiencies or deficiencies in readiness to perform college coursework for which course credit may be earned, as determined on the basis of assessments as described by Subsection (f), including the extent to which various types of placements result in or serve efficient, cost-effective, and successful developmental education;

(3) whether the funding formulas under Subsection (m) and under Section 61.059, as applied to developmental coursework, result in or serve efficient and cost-effective implementation of successful developmental education; and

(4) whether any of the nonapplicability categories under Subsection (r) should be retained.

(v) Not later than December 1, 2012, the board shall submit a written report based on the study under Subsection (u) to the governor, lieutenant governor, speaker of the house of representatives, and presiding officer of each legislative standing committee with primary jurisdiction over higher education or state appropriations recommending, to the extent practicable, a statewide diagnostic standard assessment instrument for purposes of this section that allows for:

(1) accurate diagnosis and targeted intervention for students who are identified as requiring developmental coursework;

(2) appropriate placement to provide the type and level of developmental coursework that allows a student to receive developmental education in the most efficient, cost-effective, and successful manner; and

(3) the most effective use of formula funding with regard to developmental coursework targeted to students' needs.

(w) Subsections (u) and (v) and this subsection expire January 1, 2013.

SECTION 4. Section 61.059, Education Code, is amended by adding Subsection (b-1) to read as follows:

(b-1) The board shall include in its periodic review of formulas under Subsection (b) recommendations for changes in funding formulas for developmental education programs based on the results of the study conducted under Section 51.3062(u) and the report submitted under Section 51.3062(v). This subsection expires January 1, 2015.

SECTION 5. The change in law made by this Act to Section 61.059, Education Code, applies beginning with periodic reviews submitted on or after December 1, 2012.

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 Patrick moved to adopt the conference committee report on **HB 3468**.

The motion to adopt the conference committee report on **HB 3468** prevailed by (Record 1740): 141 Yeas, 1 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Branch; Brown; Burkett; 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, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberger; Lavender; Legler; Lewis; Lozano; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; McClendon; Menendez; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Perry.

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

Absent, Excused — Burnam; Miles.

Absent — Howard, C.; Lucio; Martinez Fischer; Smith, W.

STATEMENT OF VOTE

When Record No. 1740 was taken, I was in the house but away from my desk. I would have voted yes.

Martinez Fischer

SB 8 - MOTION TO ADOPT CONFERENCE COMMITTEE REPORT

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

(Speaker in the chair)

SB 8 - POINT OF ORDER

Representative Martinez Fischer raised a point of order against further consideration of **SB 8** under Rule 8, Section 13(f) of the House Rules on the grounds that the deadline for consideration of conference committee reports had passed.

The speaker sustained the point of order.

MOTION TO ADJOURN

Representative Castro moved that the house adjourn until 10 a.m. today, May 30.

The motion was lost by (Record 1741): 46 Yeas, 100 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Castro; Coleman; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Farias; Farrar; Gallego; Giddings; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hernandez Luna; Hochberg; Howard, D.; Johnson; King, T.; Lozano; Lucio; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Muñoz; Naishtat; Oliveira; Pickett; Quintanilla; Raymond; Reynolds; Rodriguez; Thompson; Turner; Veasey; Villarreal; Vo; Walle.

Nays — 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; Eissler; Elkins; Fletcher; Flynn; Frullo; Garza; Geren; Gonzales, L.; Gooden; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hopson; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Margo; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pitts; Price; Riddle; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Torres; Truitt; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Burnam; Miles.

MOTION TO RECONSIDER

Representative Legler moved to reconsider the vote by which the motion to suspend Rule 8, Section 13(f) of the House Rules and all necessary rules was lost earlier today.

The motion to reconsider was withdrawn.

ADJOURNMENT

Representative Turner moved that the house adjourn until 10 a.m. today, May 30.

The motion prevailed.

The house accordingly, at 12:17 a.m. Monday, May 30, adjourned until 10 a.m. today.

ADDENDUM

SIGNED BY THE SPEAKER

The following bills and resolutions were today signed in the presence of the house by the speaker:

House List No. 42

HB 3, HB 308, HB 326, HB 351, HB 422, HB 550, HB 590, HB 630, HB 680, HB 811, HB 968, HB 1040, HB 1090, HB 1111, HB 1199, HB 1224, HB 1234, HB 1334, HB 1371, HB 1495, HB 1504, HB 1638, HB 1658, HB 1759, HB 1760, HB 1768, HB 1821, HB 1904, HB 1907, HB 1960, HB 2004, HB 2015, HB 2017, HB 2102, HB 2169, HB 2172, HB 2203, HB 2207, HB 2265, HB 2277, HB 2284, HB 2313, HB 2408, HB 2449, HB 2592, HB 2594, HB 2596, HB 2655, HB 2662, HB 2663, HB 2717, HB 2903, HB 2909, HB 2947, HB 2999, HB 3002, HB 3111, HB 3133, HB 3278, HB 3333, HB 3771, HB 3819, HB 3827, HB 3828, HB 3845, HCR 1, HCR 84, HCR 167

Senate List No. 37

SB 5, SB 49, SB 71, SB 78, SB 209, SB 222, SB 303, SB 321, SB 322, SB 391, SB 407, SB 480, SB 498, SB 502, SB 573, SB 594, SB 629, SB 663, SB 731, SB 736, SB 760, SB 809, SB 844, SB 859, SB 924, SB 942, SB 943, SB 978, SB 981, SB 988, SB 993, SB 1003, SB 1035, SB 1048, SB 1094, SB 1178, SB 1185, SB 1196, SB 1209, SB 1216, SB 1233, SB 1250, SB 1271, SB 1449, SB 1551, SB 1605, SB 1636, SB 1649, SB 1732, SB 1796, SB 1920

Senate List No. 38

SB 76, SB 81, SB 144, SB 156, SB 197, SB 221, SB 223, SB 249, SB 263, SB 313, SB 332, SB 377, SB 385, SB 425, SB 462, SB 469, SB 563, SB 647, SB 767, SB 773, SB 776, SB 803, SB 875, SB 932, SB 1068, SB 1170, SB 1179, SB 1234, SB 1285, SB 1286, SB 1338, SB 1413, SB 1416, SB 1422, SB 1489, SB 1546, SB 1616, SB 1620, SB 1733, SB 1736, SB 1760, SB 1810, SB 1909

MESSAGES FROM THE SENATE

The following messages from the senate were today received by the house:

Message No. 1**MESSAGE FROM THE SENATE****SENATE CHAMBER**

Austin, Texas

Sunday, May 29, 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 PASSED THE FOLLOWING MEASURES:

HC **R 126** Thompson SPONSOR: Wentworth
In memory of the Honorable Edmund Kuempel of Seguin.

HC **R 160** Hughes SPONSOR: Eltife
In memory of former state representative Dr. Bob Glaze.

THE SENATE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

HB 300 (31 Yeas, 0 Nays)

HB 2226 (31 Yeas, 0 Nays)

HB 2357 (31 Yeas, 0 Nays)

HB 2490 (31 Yeas, 0 Nays)

HB 2605 (31 Yeas, 0 Nays)

HB 2608 (31 Yeas, 0 Nays)

HB 2817 (31 Yeas, 0 Nays)

HB 3109 (31 Yeas, 0 Nays)

SB 1664 (31 Yeas, 0 Nays)

Respectfully,

Patsy Spaw

Secretary of the Senate

Message No. 2**MESSAGE FROM THE SENATE****SENATE CHAMBER**

Austin, Texas

Sunday, May 29, 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 ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

HB 213	(31 Yeas, 0 Nays)
HB 2380	(31 Yeas, 0 Nays)
HB 2457	(30 Yeas, 1 Nay)
HB 2900	(31 Yeas, 0 Nays)
HB 3025	(31 Yeas, 0 Nays)
SB 28	(29 Yeas, 2 Nays)
SB 100	(31 Yeas, 0 Nays)
SB 293	(31 Yeas, 0 Nays)
SB 472	(31 Yeas, 0 Nays)
SB 635	(31 Yeas, 0 Nays)
SB 1010	(31 Yeas, 0 Nays)
SB 1543	(27 Yeas, 4 Nays)

Respectfully,
Patsy Spaw
Secretary of the Senate

Message No. 3

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Sunday, May 29, 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 PASSED THE FOLLOWING MEASURES:

HCR 176 Isaac SPONSOR: Hegar
Instructing the enrolling clerk of the house to make corrections in **HB 1517**.

THE SENATE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

HB 242 (28 Yeas, 3 Nays)

HB 414	(31 Yeas, 0 Nays)
HB 2327	(22 Yeas, 9 Nays)
HB 2770	(31 Yeas, 0 Nays)
SB 23	(30 Yeas, 1 Nay)
SB 89	(24 Yeas, 7 Nays)
SB 516	(31 Yeas, 0 Nays)
SB 542	(31 Yeas, 0 Nays)
SB 1130	(31 Yeas, 0 Nays)
SB 1788	(31 Yeas, 0 Nays)

THE SENATE HAS DISCHARGED ITS CONFEREES AND CONCURRED
IN HOUSE AMENDMENTS TO THE FOLLOWING MEASURES:

SB 408	(30 Yeas, 1 Nay)
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Respectfully,
Patsy Spaw
Secretary of the Senate

Message No. 4

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Sunday, May 29, 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 PASSED THE FOLLOWING MEASURES:

HCR 144	Parker	SPONSOR: Carona
Designating June 2 as Italian Heritage Day for a 10-year period, beginning in 2011.		

THE SENATE HAS ADOPTED THE FOLLOWING CONFERENCE
COMMITTEE REPORTS:

HB 362	(31 Yeas, 0 Nays)
HB 753	(29 Yeas, 2 Nays)
HB 1400	(31 Yeas, 0 Nays)
HB 3328	(31 Yeas, 0 Nays)
HB 3726	(31 Yeas, 0 Nays)
SB 8	(23 Yeas, 8 Nays)
SB 660	(31 Yeas, 0 Nays)

SB 1198 (31 Yeas, 0 Nays)

SB 1717 (31 Yeas, 0 Nays)

Respectfully,
Patsy Spaw
Secretary of the Senate

Message No. 5

MESSAGE FROM THE SENATE

SENATE CHAMBER

Austin, Texas

Sunday, May 29, 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 PASSED THE FOLLOWING MEASURES:

HCR 173 Thompson SPONSOR: Whitmire
Instructing the enrolling clerk of the house to make corrections in **HB 1451**.

SCR 60 Hinojosa
Instructing the enrolling clerk of the senate to make corrections in **SB 1420**.

THE SENATE HAS ADOPTED THE FOLLOWING CONFERENCE
COMMITTEE REPORTS:

HB 6 (31 Yeas, 0 Nays)

HB 335 (27 Yeas, 4 Nays)

HB 725 (31 Yeas, 0 Nays)

HB 1103 (27 Yeas, 4 Nays)

HB 2093 (26 Yeas, 5 Nays)

HB 2365 (31 Yeas, 0 Nays)

HB 2439 (29 Yeas, 2 Nays)

HB 3459 (31 Yeas, 0 Nays)

HB 3468 (31 Yeas, 0 Nays)

SB 694 (31 Yeas, 0 Nays)

SB 1320 (31 Yeas, 0 Nays)

SB 1588 (30 Yeas, 1 Nay)

SB 1600 (31 Yeas, 0 Nays)

THE SENATE HAS REFUSED TO ADOPT THE FOLLOWING
CONFERENCE COMMITTEE REPORTS:

HB 3246 (13 Yeas, 18 Nays)

Respectfully,
Patsy Spaw
Secretary of the Senate

APPENDIX

ENROLLED

May 28 - HB 1797, HB 2469, HB 2784, HB 3161, HCR 115, HCR 165

SIGNED BY THE GOVERNOR

**May 28 - HB 11, HB 205, HB 328, HB 734, HB 965, HB 1064, HB 1254,
HB 1300, HB 1353, HB 1450, HB 1789, HB 1889, HB 1901, HB 1936,
HB 1952, HB 1953, HB 2002, HB 2067, HB 2468, HB 2503, HB 2831,
HB 2936, HCR 127, HCR 135, HCR 154, HCR 155, HCR 161**