

SENATE JOURNAL

EIGHTIETH LEGISLATURE — REGULAR SESSION

AUSTIN, TEXAS

PROCEEDINGS

SIXTY-FIFTH DAY

(Continued)

(Wednesday, May 23, 2007)

AFTER RECESS

The Senate met at 10:43 a.m. and was called to order by the President.

The Reverend Timothy B. Tutt, United Christian Church, Austin, offered the invocation as follows:

Holy and gracious God, in these closing days of the 80th Session of the Texas State Senate, words are flying fast and furious, there are the words of debates; the words typed into bills; the words of promises, deals, and arrangements; there are the words of press releases; the words of shared jokes; and maybe even more than a few words of disagreement. On this day, O God, amid all the talking and the typing and the business and the busyness, remind us of the power of words. The scriptures say that You spoke, O God, and created the world. Words are powerful and words are important. The words of the Members of this Senate have the power to create new lives for people who are in need. The words in bills passed by this Legislature have the power to provide healing and hope. The words of Senators influence classrooms and board rooms and hospital rooms. Words are powerful. Words create. Words forgive. Words heal. As we speak to one another on this day, may we also hear You speaking to us, O God. May we hear Your words of justice, words of kindness, words of hope. Amen.

CO-SPONSORS OF HOUSE BILL 735

On motion of Senator Williams, Senators Carona, Harris, Jackson, Janek, Nelson, and Patrick will be shown as Co-sponsors of **HB 735**.

CO-SPONSOR OF HOUSE BILL 814

On motion of Senator Ellis, Senator West will be shown as Co-sponsor of **HB 814**.

CO-SPONSOR OF HOUSE BILL 3443

On motion of Senator West, Senator Van de Putte will be shown as Co-sponsor of **HB 3443**.

CO-SPONSOR OF HOUSE BILL 3560

On motion of Senator Janek, Senator West will be shown as Co-sponsor of **HB 3560**.

BILLS AND RESOLUTIONS SIGNED

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

SB 143, SB 204, SB 254, SB 255, SB 323, SB 324, SB 350, SB 361, SB 382, SB 387, SB 426, SB 450, SB 545, SB 660, SB 688, SB 723, SB 813, SB 914, SB 943, SB 976, SB 1097, SB 1153, SB 1263, SB 1424, SB 1434, SB 1461, SB 1533, SB 1670, SB 1735, SB 1781, SB 1828, SB 2016, HB 44, HB 48, HB 54, HB 95, HB 188, HB 271, HB 273, HB 321, HB 413, HB 429, HB 530, HB 536, HB 604, HB 662, HB 890, HB 902, HB 921, HB 1029, HB 1129, HB 1170, HB 1268, HB 1293, HB 1355, HB 1420, HB 1446, HB 1602, HB 1700, HB 1709, HB 1720, HB 1767, HB 1798, HB 1804, HB 2095, HB 2144, HB 2195, HB 2248, HB 2345, HB 2391, HB 2565, HB 2589, HB 2591, HB 2626, HB 3140, HB 3259, HB 3446, HB 3473, HB 3505, HB 3634, HB 3827, HB 3900, HCR 114, HCR 199, HCR 203, HCR 240, HCR 248, SCR 85, SJR 44, SJR 57, SJR 64.

PHYSICIAN OF THE DAY

Senator Janek was recognized and presented Dr. Amina Patel of Sugar Land as the Physician of the Day.

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

SENATE RESOLUTION 157

Senator West offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to recognize Emma Rogers, honorary cochair of the 2007 African American Read-In, for her many contributions to the cultural and educational landscape of the African American community in Dallas; and

WHEREAS, Emma cofounded Black Images Book Bazaar nearly 30 years ago with Ashira Toshiwe, and the store quickly became the favored place to find the works of black authors who were unknown to mainstream booksellers; the store also became noted for its personalized service and was a popular meeting place for loyal patrons and for local organizations and book clubs; and

WHEREAS, Black Images Book Bazaar hosted such national celebrity authors on book tours as Patti LaBelle, Rosa Parks, Maya Angelou, and Susan Taylor; it also encouraged and promoted local writers, some of whom became national best-selling authors, such as Francis Ray and Victor McGlothin; and

WHEREAS, As co-owner of the Black Images Book Bazaar, Emma has served as a longtime sponsor and supporter of the annual African American Read-In, and it is appropriate that she be an honorary cochair of this year's event; the 2007 African

American Read-In, with its theme of "Light Up Your Life with Reading, Books, and Friends," will feature area actors and performers and celebrated children's author Christopher Paul Curtis; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 80th Legislature, hereby commend Emma Rogers for her valuable role in the cultural growth of the African American community in Dallas and proclaim her a Lifetime Literacy Champion for the State of Texas; and, be it further

RESOLVED, That a copy of this Resolution be prepared for her as an expression of high regard from the Texas Senate.

SR 157 was again read.

The resolution was previously adopted on Monday, February 5, 2007.

GUEST PRESENTED

Senator West was recognized and introduced to the Senate Emma Rogers, honorary Co-chair of the 2007 African American Read-In.

The Senate welcomed its guest.

SENATE RESOLUTION 158

Senator West offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to recognize Ashira Toshiwe, honorary cochair of the 2007 African American Read-In, for her many contributions to the cultural and educational landscape of the African American community in Dallas; and

WHEREAS, Ashira cofounded Black Images Book Bazaar nearly 30 years ago with Emma Rogers, and the store quickly became the favored place to find the works of black authors who were unknown to mainstream booksellers; the store also became noted for its personalized service and was a popular meeting place for loyal patrons and for local organizations and book clubs; and

WHEREAS, Black Images Book Bazaar hosted such national celebrity authors on book tours as Patti LaBelle, Rosa Parks, Maya Angelou, and Susan Taylor; it also encouraged and promoted local writers, some of whom became national best-selling authors, such as Francis Ray and Victor McGlothin; and

WHEREAS, As co-owner of the Black Images Book Bazaar, Ashira has served as a longtime sponsor and supporter of the annual African American Read-In, and it is appropriate that she be an honorary cochair of this year's event; the 2007 African American Read-In, with its theme of "Light Up Your Life with Reading, Books, and Friends," will feature area actors and performers and celebrated children's author Christopher Paul Curtis; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 80th Legislature, hereby commend Ashira Toshiwe for her valuable role in the cultural growth of the African American community in Dallas and proclaim her a Lifetime Literacy Champion for the State of Texas; and, be it further

RESOLVED, That a copy of this Resolution be prepared for her as an expression of high regard from the Texas Senate.

SR 158 was again read.

The resolution was previously adopted on Monday, February 5, 2007.

GUEST PRESENTED

Senator West was recognized and introduced to the Senate Ashira Toshiwe, honorary Co-chair of the 2007 African American Read-In.

The Senate welcomed its guest.

SENATE CONCURRENT RESOLUTION 9

The President laid before the Senate the following resolution:

WHEREAS, The Texas Legislature created the Sunset Advisory Commission, which will celebrate its 30th anniversary this year; and

WHEREAS, Through the sunset process, the legislature has streamlined and changed state government, abolished 52 agencies, consolidated 12 others, saved \$784 million, and improved government operations through 375 reviews; and

WHEREAS, The commission has enjoyed committed service from its members over the years, and it is currently under the leadership of its chair, Senator Kim Brimer, and its vice chair, Representative Vicki Truitt; and

WHEREAS, The commission has been supported by a talented and dedicated staff under the leadership of director Joey Longley, deputy director Ken Levine, and review directors Joe Walraven and Ginny McKay; its staff members include Steve Hopson, Jennifer Jones, Karen Latta, Janelle Collier, Christian Ninaud, Chloe Lieberknecht, Leah Campbell, Annette Coussan, Kelly Kennedy, Sarah Kirkle, Ken Martin, David Olvera, Faye Rencher, Katharine Teleki, Amy Trost, Susan Turner, Cindy Womack, Cee Hartley, Barbara Hunley, Dawn Roberson, Janet Wood, and Julie Fullingim; now, therefore, be it

RESOLVED, That the 80th Legislature of the State of Texas hereby recognize and honor the Sunset Advisory Commission for its 30 years of service to the State of Texas; and, be it further

RESOLVED, That an official copy of this resolution be prepared for the Sunset Advisory Commission, its members, and each member of its staff as an expression of sincere gratitude from the Texas Senate and House of Representatives.

BRIMER

SCR 9 was read.

On motion of Senator Brimer and by unanimous consent, the resolution was considered immediately and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of the resolution.

GUESTS PRESENTED

Senator Brimer was recognized and introduced to the Senate representatives of the Sunset Advisory Commission: Joey Longley, Director; Ken Levine, Deputy Director; and Ginny McKay and Joe Walraven, Sunset Review Directors.

The Senate welcomed its guests.

(Senator Brimer in Chair)**HOUSE BILL 2982 ON SECOND READING**

Senator Seliger moved to suspend Senate Rule 5.14(a) and the regular order of business to take up for consideration **HB 2982** at this time on its second reading:

HB 2982, Relating to the ad valorem tax appraisal of oil or gas interests.

The motion prevailed.

Senator Ogden asked to be recorded as "Present-not voting" on suspension of the regular order of business.

The bill was read second time.

Senator Seliger offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 2982** (House committee printing) by adding the following appropriately numbered Sections and renumbering the remaining Sections of the bill:

SECTION _____. Section 162.227, Tax Code, is amended by adding Subsection (c-1) to read as follows:

(c-1) A license holder may take a credit on a return for the period in which the purchase occurred, and a person who does not hold a license may file a refund claim with the comptroller, if:

(1) the license holder or person paid tax on diesel fuel;

(2) the diesel fuel is used in this state by movable specialized equipment used in oil field well servicing; and

(3) the person who purchased the diesel fuel has received or is eligible to receive a federal diesel fuel tax refund under the Internal Revenue Code of 1986 for the diesel fuel used by movable specialized equipment used in oil field well servicing.

SECTION _____. This Act takes effect September 1, 2007.

The amendment to **HB 2982** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Present-not voting: Ogden.

Senator Seliger offered the following amendment to the bill:

Floor Amendment No. 2

Amend **HB 2982** by adding the following appropriately numbered SECTION to read as follows and renumbering subsequent SECTIONS accordingly:

SECTION _____. Sections 201.059(g) and 202.058(h), Tax Code, are repealed.

The amendment to **HB 2982** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2 except as follows:

Present-not voting: Ogden.

Senator Estes offered the following amendment to the bill:

Floor Amendment No. 3

Amend **HB 2982** by adding the following SECTION to the bill, appropriately numbered, and renumbering subsequent SECTIONS accordingly:

SECTION _____. (a) Section 21.02(e), Tax Code, is amended to read as follows:

(e) In this subsection, "portable drilling rig" includes equipment associated with the drilling rig. A portable drilling rig designed for land-based oil or gas drilling or exploration operations is taxable by each ~~the~~ taxing unit in which the rig is located on January 1 if the rig was located in the appraisal district that appraises property for the unit for the preceding 365 consecutive days. If the drilling rig was not located in the appraisal district where it is located on January 1 for the preceding 365 days, it is taxable by each ~~the~~ taxing unit in which the owner's principal place of business in this state is located on January 1, unless the owner renders the rig under Chapter 22 to the appraisal district in which the rig is located on January 1, in which event the rig is taxable by each taxing unit in which the rig is located on January 1. If an owner elects to render any portable drilling rig to the appraisal district in which the rig is located on January 1 when the rig otherwise would be taxable at the owner's principal place of business in this state, all the owner's portable drilling rigs are taxable by the taxing units in which each rig is located on January 1. Notwithstanding any other provision of this subsection, if the owner of a portable drilling rig does not have a place of business in this state, the rig is taxable by each taxing unit in which the rig is located on January 1.

(b) Subsection (a) of this section applies only to a tax year that begins on or after the effective date of this section.

(c) This section takes effect January 1, 2008.

The amendment to **HB 2982** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 3 except as follows:

Present-not voting: Ogden.

On motion of Senator Seliger and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 2982 as amended was passed to third reading by a viva voce vote.

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

Present-not voting: Ogden.

HOUSE BILL 2982 ON THIRD READING

Senator Seliger moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2982** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Ogden.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0, Present-not voting 1. (Same as previous roll call)

HOUSE BILL 2667 ON SECOND READING

On motion of Senator Deuell and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2667** at this time on its second reading:

HB 2667, Relating to certain insurance-related matters involving rural volunteer firefighters, volunteer police force members, or emergency services districts.

The bill was read second time.

Senator Deuell offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **HB 2667** (House engrossment version) in SECTION 2 of the bill as follows:

(1) In added Section 614.122, Government Code (page 2, line 4), between the period and "Each", insert "(a)".

(2) In added Section 614.122, Government Code (page 2, line 5), between "insured" and "by", insert "or covered".

(3) At the end of added Section 614.122, Government Code (page 2, between lines 9 and 10), insert the following:

(b) The applicable state agency or political subdivision may satisfy the requirements of Subsection (a) by:

(1) providing insurance coverage; or

(2) entering into an interlocal agreement with another political subdivision providing for self-insurance.

The amendment to **HB 2667** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Committee Amendment No. 1.

On motion of Senator Deuell and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 2667 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 2667 ON THIRD READING

Senator Deuell moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2667** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time.

Senator Nelson offered the following amendment to the bill:

Floor Amendment No. 1 on Third Reading

Amend **HB 2667** on third reading (Senate committee printing) by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Chapter 487, Government Code, is amended by adding Subchapter P to read as follows:

SUBCHAPTER P. RURAL PHYSICIAN AND DENTIST LOAN REPAYMENT PROGRAM

Sec. 487.701. DEFINITION. In this subchapter, "rural medically or dentally underserved area" means a predominantly rural geographic area in this state that the office by rule designates as being underserved with respect to available medical or dental care.

Sec. 487.702. LOAN REPAYMENT PROGRAM. In accordance with this subchapter and rules adopted by the executive committee, the office shall establish and administer a program to provide loan repayment assistance to physicians and dentists who agree to:

(1) practice medicine or dentistry, as applicable, in a rural medically or dentally underserved area; and

(2) provide medical or dental services, as applicable, in that area to children who are recipients under the medical assistance program operated under Chapter 32, Human Resources Code.

Sec. 487.703. ELIGIBILITY. To be eligible to receive loan repayment assistance under this subchapter, a physician or dentist must:

(1) apply to the office;

(2) be licensed to practice medicine or dentistry, as applicable, in this state;

and

(3) enter into an agreement with the office as provided by Section 487.705.

Sec. 487.704. ELIGIBLE LOANS. (a) The office may provide repayment assistance for the repayment of any education loan received by the physician or dentist through any lender for education at any medical or dental school authorized by the Texas Higher Education Coordinating Board to award a degree that satisfies the medical or dental study requirements for licensure as a physician or dentist in this state.

(b) The office may not provide repayment assistance for an education loan that is in default at the time of the physician's or dentist's application.

Sec. 487.705. AGREEMENT REQUIREMENTS. (a) To qualify for loan repayment assistance under this section, a person must enter into a written agreement with the office as provided by this section. The agreement must:

(1) specify the conditions the person must satisfy to receive repayment assistance;

(2) require the person to practice medicine or dentistry for at least three years in a rural medically or dentally underserved area and to provide medical or dental services, as applicable, in that area during that period to children who are recipients under the medical assistance program operated under Chapter 32, Human Resources Code;

(3) provide that any repayment assistance the person receives under this subchapter constitutes a loan until the person completes the three years of practice and satisfies other applicable conditions of the agreement; and

(4) require the person to sign a promissory note acknowledging the conditional nature of the repayment assistance received and promising to repay the amount of that assistance plus applicable interest and reasonable collection costs if the person does not satisfy the applicable conditions.

(b) The office shall determine the terms of the promissory note required by Subsection (a)(4). To the extent practicable, the terms must be the same as those applicable to state or federally guaranteed student loans made at the same time.

(c) The Health and Human Services Commission shall provide any information requested by the office necessary for the office to confirm a physician's or dentist's compliance with the requirement under Subsection (a)(2) that the physician or dentist provide services to children who are recipients of the medical assistance program operated under Chapter 32, Human Resources Code.

Sec. 487.706. REPAYMENT. (a) The office shall deliver any repayment assistance made under this subchapter in a lump sum payable to the lender and the physician or dentist, as applicable, and in accordance with any applicable federal law.

(b) Loan repayment assistance received under this subchapter may be applied to the principal amount of the loan and to interest that accrues.

Sec. 487.707. GRANTS, GIFTS, AND DONATIONS. In addition to funds appropriated by the legislature, the office may solicit and accept grants, gifts, and donations from any public or private source for the purposes of this subchapter.

Sec. 487.708. RULES. (a) The executive committee shall adopt rules necessary to administer this subchapter.

(b) The office shall distribute to each medical or dental school of a public or private institution of higher education in this state a copy of the rules adopted under this section.

The amendment to **HB 2667** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 on Third Reading.

Senator Nelson offered the following amendment to the bill:

Floor Amendment No. 2 on Third Reading

Amend **HB 2667** on third reading (Senate committee printing) by adding the following appropriately numbered SECTIONS and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter A, Chapter 156, Occupations Code, is amended by adding Section 156.006 to read as follows:

Sec. 156.006. EMERGENCY CONTACT INFORMATION. (a) Each license holder shall submit to the board telephone numbers, fax numbers, and e-mail addresses, if available and as appropriate, that the board may use to contact the license holder in an emergency.

(b) A license holder who receives an initial registration permit shall provide the information required under Subsection (a) not later than the 30th day after the date the permit is issued. Each license holder who applies to renew a registration permit shall submit the information required under Subsection (a) with the renewal application.

(c) A license holder shall report to the board any change in the information required under Subsection (a) not later than the 45th day after the date of the change.

(d) The information provided by a license holder under this section is confidential and is not subject to disclosure under Chapter 552, Government Code. The board may not publish, release, or make available information provided by a license holder under this section except as provided by Subsection (e).

(e) In the event of a public health emergency declared or invoked by the governor, the Department of State Health Services, or a federal agency, the board may publish, release, or make available information provided by a license holder under this section for the sole purpose of disseminating information to:

(1) a license holder;

(2) a designated city, county, state, or federal public health or emergency management official; or

(3) the Federation of State Medical Boards.

SECTION _____. (a) Not later than December 1, 2007, each person who holds a license to practice medicine under Chapter 155, Occupations Code, shall submit to the Texas Medical Board telephone numbers, fax numbers, and e-mail addresses, if available and as appropriate, that the board may use to contact the license holder in an emergency.

(b) The information provided by a license holder under this section is confidential and is not subject to disclosure under Chapter 552, Government Code. The Texas Medical Board may not publish, release, or make available information provided by a license holder under this section except as provided by this subsection.

The amendment to **HB 2667** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2 on Third Reading.

On motion of Senator Deuell and by unanimous consent, the caption was again amended to conform to the body of the bill as amended.

HB 2667 as again amended was finally passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 1113 ON SECOND READING

On motion of Senator Uresti and by unanimous consent, Senate Rule 5.14(a) and the regular order of business were suspended to take up for consideration **HB 1113** at this time on its second reading:

HB 1113, Relating to prohibitions on and reporting research on children within the juvenile probation system.

The bill was read second time.

Senator Uresti offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 1113** in SECTION 1 of the bill, in new Section 141.0485, Human Resources Code, by striking Subsection (b) (page 1, lines 19-21) and substituting:

(b) This section does not apply to:

(1) research administering surveys or questionnaires;

(2) studies that are based only on medical records, claims data, or outcome data;

(3) studies employing neurocognitive testing; or

(4) studies using noninvasive brain imaging, including magnetic resonance imaging.

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The amendment to **HB 1113** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

Senator Shapleigh offered the following amendment to the bill:

Floor Amendment No. 2

Amend **HB 1113** (Senate committee printing), in SECTION 1 of the bill, in added Section 141.0485, Human Resources Code (page 1, between lines 21 and 22), by inserting:

(c) This section does not apply to a research program if one of the following courts determines it is in the best interest of a child for the child to participate in the research program:

(1) a district court in Travis County;

(2) a district court whose jurisdiction includes the county of the child's residence or placement; or

(3) a court with continuing jurisdiction over the child's case.

The amendment to **HB 1113** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2.

Senator Wentworth offered the following amendment to the bill:

Floor Amendment No. 3

Amend **HB 1113** by adding the following appropriately numbered SECTION to the bill and renumbering the subsequent SECTIONS accordingly:

SECTION __. Subchapter A, Chapter 58, Family Code, is amended by adding Section 58.0052 to read as follows:

Sec. 58.0052. EXCHANGE OF INFORMATION CONCERNING AT-RISK YOUTH. (a) In this section:

(1) "Agency" means any of the following entities, a person with an agency relationship with any of the following entities, or a person who contracts with any of the following entities:

- (A) the Texas Youth Commission;
 - (B) the Texas Juvenile Probation Commission;
 - (C) the Department of Family and Protective Services;
 - (D) the Texas Education Agency;
 - (E) a juvenile probation department;
 - (F) a school district or open-enrollment charter school;
 - (G) a local mental health or mental retardation authority;
 - (H) a municipal or county health department;
 - (I) a hospital district; or
 - (J) a county-funded program for at-risk youth.
- (2) "At-risk youth" means a person who is under 18 years of age and:
- (A) who has been referred to a juvenile court for allegedly engaging in delinquent conduct or conduct indicating a need for supervision;
 - (B) who:
 - (i) has been adjudicated as having engaged in delinquent conduct or conduct indicating a need for supervision; and
 - (ii) is in the custody of the Texas Youth Commission or a juvenile board or is under any form of juvenile probation or supervision; or
 - (C) who has a history of active involvement with the Department of Family and Protective Services or a local mental health or mental retardation authority.
- (b) An agency shall:
- (1) disclose to another agency information relating to an at-risk youth, including information concerning the at-risk youth's identity, needs, treatment, social, criminal, educational, and vocational history, probation or supervision status and compliance with the conditions of the at-risk youth's probation or supervision, and medical and mental health history, if the disclosure serves the purposes provided under Subsection (c); and
 - (2) accept information relating to an at-risk youth that is sent to the agency for the purposes provided under Subsection (c), regardless of whether other state law makes that information confidential.
- (c) An agency may use information provided to the agency under this section only to assist the agency in:
- (1) protecting the community; or
 - (2) providing services to the at-risk youth who is the subject of the information.
- (d) Before sharing information under this section, an agency may enter into a memorandum of understanding with one or more other agencies to specify:
- (1) the types of information that may be exchanged among agencies under this section without violating any applicable provisions of federal law, including any federal funding requirements; and
 - (2) the protocols for information sharing, including methods for ensuring the continued protection of confidential information by the receiving agency.

The amendment to **HB 1113** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 3.

On motion of Senator Uresti and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 1113 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 1113 ON THIRD READING

Senator Uresti moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1113** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 3630 ON SECOND READING

Senator Hegar moved to suspend Senate Rule 5.14(a) and the regular order of business to take up for consideration **HB 3630** at this time on its second reading:

HB 3630, Relating to the appraisal for ad valorem tax purposes of a parcel of land that is used for single-family residential purposes and is contiguous to a parcel of agricultural or open-space land owned by the same person.

The motion prevailed.

Senator Shapiro asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time.

Senator Hegar offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 3630** (House committee printing) by adding the following SECTION to the bill, appropriately numbered, and renumbering existing SECTIONS accordingly:

SECTION ____ . Section 23.51(2), Tax Code, is amended to read as follows:

(2) "Agricultural use" includes but is not limited to the following activities: cultivating the soil, producing crops for human food, animal feed, or planting seed or for the production of fibers; floriculture, viticulture, and horticulture; raising or keeping livestock; raising or keeping exotic animals for the production of human food or of fiber, leather, pelts, or other tangible products having a commercial value; ~~and~~ planting cover crops or leaving land idle for the purpose of participating in a ~~any~~ governmental program, provided the land is not used for residential purposes or a purpose inconsistent with agricultural use; and planting cover crops or leaving land idle in conjunction with ~~or~~ normal crop or livestock rotation procedure. The term also includes the use of land to produce or harvest logs and posts for the use in constructing or repairing fences, pens, barns, or other agricultural improvements on adjacent qualified open-space land having the same owner and devoted to a different agricultural use. The term also includes the use of land for wildlife management.

The amendment to **HB 3630** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

Senator Hegar offered the following amendment to the bill:

Floor Amendment No. 2

Amend **HB 3630** (Senate committee printing) by adding the following SECTION to the bill, appropriately numbered, and renumbering subsequent SECTIONS accordingly:

SECTION __. (a) Section 26.06(b), Tax Code, as amended by Chapter 807, Acts of the 79th Legislature, Regular Session, 2005, is amended to read as follows:

(b) The notice of a public hearing may not be smaller than one-quarter page of a standard-size or a tabloid-size newspaper, and the headline on the notice must be in 24-point or larger type. The notice must[~~+~~

(~~+~~) contain a statement in the following form:

"NOTICE OF PUBLIC HEARING ON TAX INCREASE

"The (name of the taxing unit) will hold two [~~a~~] public hearings [~~hearing~~] on a proposal to increase total tax revenues from properties on the tax roll in the preceding tax year by (percentage by which proposed tax rate exceeds lower of rollback tax rate or effective tax rate calculated under this chapter) percent. Your individual taxes may increase at a greater or lesser rate, or even decrease, depending on the change in the taxable value of your property in relation to the change in taxable value of all other property and the tax rate that is adopted.

"The first public hearing will be held on (date and time) at (meeting place).

"The second public hearing will be held on (date and time) at (meeting place).

"(Names of all members of the governing body, showing how each voted on the proposal to consider the tax increase or, if one or more were absent, indicating the absences.)

"The average taxable value of a residence homestead in (name of taxing unit) last year was \$ (average taxable value of a residence homestead in the taxing unit for the preceding tax year, disregarding residence homestead exemptions available only to disabled persons or persons 65 years of age or older). Based on last year's tax rate of \$ (preceding year's adopted tax rate) per \$100 of taxable value, the amount of taxes imposed last year on the average home was \$ (tax on average taxable value of a residence homestead in the taxing unit for the preceding tax year, disregarding residence homestead exemptions available only to disabled persons or persons 65 years of age or older).

"The average taxable value of a residence homestead in (name of taxing unit) this year is \$ (average taxable value of a residence homestead in the taxing unit for the current tax year, disregarding residence homestead exemptions available only to disabled persons or persons 65 years of age or older). If the governing body adopts the effective tax rate for this year of \$ (effective tax rate) per \$100 of taxable value, the amount of taxes imposed this year on the average home would be \$ (tax on average taxable value of a residence homestead in the taxing unit for the current tax year, disregarding residence homestead exemptions available only to disabled persons or persons 65 years of age or older).

"If the governing body adopts the proposed tax rate of \$ (proposed tax rate) per \$100 of taxable value, the amount of taxes imposed this year on the average home would be \$ (tax on the average taxable value of a residence in the taxing unit for the current year disregarding residence homestead exemptions available only to disabled persons or persons 65 years of age or older).

"Members of the public are encouraged to attend the hearings and express their views."~~;~~ and

~~[(2) contain the following information:~~

~~[(A) a section entitled "Comparison of Proposed Budget with Last Year's Budget," which must show the difference, expressed as a percent increase or decrease, as applicable, in the amount budgeted in the preceding fiscal year and the amount budgeted for the fiscal year that begins in the current tax year for each of the following:~~

~~[(i) maintenance and operations;~~

~~[(ii) debt service; and~~

~~[(iii) total expenditures;~~

~~[(B) a section entitled "Total Appraised Value and Total Taxable Value," which must show the total appraised value and the total taxable value of all property and the total appraised value and the total taxable value of new property taxable by the unit in the preceding tax year and the current tax year as calculated under Section 26.04;~~

~~[(C) the total amount of the outstanding and unpaid bonded indebtedness of the taxing unit;~~

~~[(D) the unit's adopted tax rate for the preceding tax year and the proposed tax rate, expressed as an amount per \$100;~~

~~[(E) the difference, expressed as an amount per \$100 and as a percent increase or decrease, as applicable, in the proposed tax rate compared to the adopted tax rate for the preceding tax year;~~

~~[(F) the average appraised value of a residence homestead in the taxing unit in the preceding tax year and in the current tax year; the unit's homestead exemption, other than an exemption available only to disabled persons or persons 65 years of age or older, applicable to that appraised value in each of those years; and the average taxable value of a residence homestead in the unit in each of those years, disregarding any homestead exemption available only to disabled persons or persons 65 years of age or older;~~

~~[(G) the amount of tax that would have been imposed by the unit in the preceding tax year on a residence homestead appraised at the average appraised value of a residence homestead in that year, disregarding any homestead exemption available only to disabled persons or persons 65 years of age or older;~~

~~[(H) the amount of tax that would be imposed by the unit in the current tax year on a residence homestead appraised at the average appraised value of a residence homestead in the current tax year, disregarding any homestead exemption available only to disabled persons or persons 65 years of age or older, if the proposed tax rate is adopted; and~~

~~[(I) the difference between the amounts of tax calculated under Paragraphs (G) and (H), expressed in dollars and cents and described as the annual increase or decrease, as applicable, in the tax to be imposed by the unit on the average residence homestead in the unit in the current tax year if the proposed tax rate is adopted.]~~

(b) Section 26.06(d), Tax Code, is amended to read as follows:

(d) At the public hearings the governing body shall announce the date, time, and place of the meeting at which it will vote on the proposed tax rate. After each hearing the governing body shall give notice of the meeting at which it will vote on the proposed tax rate and the notice shall be in the same form as prescribed by Subsections (b) and (c), except that it must state the following:

"NOTICE OF ~~[VOTE ON]~~ TAX REVENUE INCREASE ~~[RATE]~~

"The (name of the taxing unit) conducted public hearings on (date of first hearing) and (date of second hearing) on a proposal to increase the total tax revenues of the (name of the taxing unit) from properties on the tax roll in the preceding year by (percentage by which proposed tax rate exceeds lower of rollback tax rate or effective tax rate calculated under this chapter) percent [on (dates and times public hearings were conducted)]."

"The total tax revenue proposed to be raised last year at last year's tax rate of (insert tax rate for the preceding year) for each \$100 of taxable value was (insert total amount of taxes imposed in the preceding year)."

"The total tax revenue proposed to be raised this year at the proposed tax rate of (insert proposed tax rate) for each \$100 of taxable value, excluding tax revenue to be raised from new property added to the tax roll this year, is (insert amount computed by multiplying proposed tax rate by the difference between current total value and new property value)."

"The total tax revenue proposed to be raised this year at the proposed tax rate of (insert proposed tax rate) for each \$100 of taxable value, including tax revenue to be raised from new property added to the tax roll this year, is (insert amount computed by multiplying proposed tax rate by current total value)."

"The (governing body of the taxing unit) is scheduled to vote on the tax rate that will result in that tax increase at a public meeting to be held on (date of meeting) at (location of meeting, including mailing address) at (time of meeting [and time] at (meeting place))."

(c) Section 26.06(b), Tax Code, as amended by Chapter 1368, Acts of the 79th Legislature, Regular Session, 2005, is repealed.

The amendment to **HB 3630** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2.

Senator Hegar offered the following amendment to the bill:

Floor Amendment No. 3

Amend **HB 3630** (Senate committee printing) by adding the following SECTION to the bill, appropriately numbered, and renumbering subsequent SECTIONS accordingly:

SECTION ____. Section 25.19, Tax Code, is amended by adding Subsection (b-2) and amending Subsection (d) to read as follows:

(b-2) This subsection applies only to a notice of appraised value for residential real property that has not qualified for a residence homestead exemption in the current tax year. If the records of the appraisal district indicate that the address of the property is also the address of the owner of the property, in addition to containing the applicable information required by Subsections (b), (b-1), and (f), the notice must contain the following statement in boldfaced 12-point type: "According to the records of the appraisal district, the residential real property described in this notice of appraised value is not currently being allowed a residence homestead exemption from ad valorem taxation. If the property is your home and you occupy it as your principal place of residence, the property may qualify for one or more residence homestead exemptions, which will reduce the amount of taxes imposed on the property. The form needed to apply for a residence homestead exemption is enclosed. Although the form may state that the deadline for filing an application for a residence homestead exemption is April 30, a late application for a residence homestead exemption will be accepted if filed before February 1, (insert year application must be filed). There is no fee or charge for filing an application or a late application for a residence homestead exemption." The notice must be accompanied by an application form for a residence homestead exemption.

(d) Failure to receive a ~~the~~ notice required by this section does not affect the validity of the appraisal of the property, the imposition of any tax on the basis of the appraisal, the existence of any tax lien, the deadline for filing an application for a residence homestead exemption, or any proceeding instituted to collect the tax.

The amendment to **HB 3630** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 3.

Senator Hegar offered the following amendment to the bill:

Floor Amendment No. 4

Amend **HB 3630** (Senate committee printing) by adding the following SECTION to the bill, appropriately numbered, and renumbering existing SECTIONS of the bill accordingly:

SECTION ____. Section 23.42, Tax Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) Except as provided by Subsection (a-1), an ~~An~~ individual is entitled to have land he owns designated for agricultural use if, on January 1:

(1) the land has been devoted exclusively to or developed continuously for agriculture for the three years preceding the current year;

(2) the individual ~~he~~ is using and intends to use the land for agriculture as an occupation or a business venture for profit during the current year; and

(3) agriculture is the individual's ~~his~~ primary occupation and primary source of income.

(a-1) On or after January 1, 2008, an individual is not entitled to have land designated for agricultural use if the land secures a home equity loan described by Section 50(a)(6), Article XVI, Texas Constitution.

The amendment to **HB 3630** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 4.

On motion of Senator Hegar and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 3630 as amended was passed to third reading by a viva voce vote.

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

Nays: Shapiro.

HOUSE BILL 3630 ON THIRD READING

Senator Hegar moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3630** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Shapiro.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 1. (Same as previous roll call)

HOUSE BILL 3057 ON SECOND READING

On motion of Senator Janek and by unanimous consent, Senate Rule 5.14(a) and the regular order of business were suspended to take up for consideration **HB 3057** at this time on its second reading:

HB 3057, Relating to the acquisition of real property for public use.

The bill was read second time.

Senator Janek offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 3057** (Senate committee printing) as follows:

(1) In SECTION 5 of the bill, in amended Subdivision (3), Section 374.003, Local Government Code (page 2, line 48), strike "four" and substitute "three".

(2) In SECTION 5 of the bill, in amended Subdivision (3), Section 374.003, Local Government Code (page 2, line 49), strike "one year" and substitute "six months".

(3) In SECTION 5 of the bill, in amended Subdivision (3), Section 374.003, Local Government Code (page 3, lines 2-3), strike Paragraph (F) and reletter subsequent paragraphs accordingly.

(4) In SECTION 5 of the bill, in amended Subdivision (3)(H), Section 374.003, Local Government Code (page 3, line 10), strike "deteriorating structures or".

(5) Strike SECTIONS 15 through 17 of the bill (page 7, lines 21 through 62) and renumber subsequent SECTIONS accordingly.

(6) Add the following appropriately numbered SECTIONS to the bill and renumber subsequent SECTIONS accordingly:

SECTION __. Section 311.002, Tax Code, is amended by adding Subdivision (5) to read as follows:

(5) "Blighted area" has the meaning assigned by Section 374.003(3), Local Government Code.

SECTION __. Sections 311.008(b) and (e), Tax Code, are amended to read as follows:

(b) A municipality or county may exercise any power necessary and convenient to carry out this chapter, including the power to:

(1) cause project plans to be prepared, approve and implement the plans, and otherwise achieve the purposes of the plan;

(2) acquire real property by purchase~~[, condemnation, or other means]~~ to implement project plans and sell that property on the terms and conditions and in the manner it considers advisable;

(3) enter into agreements, including agreements with bondholders, determined by the governing body of the municipality or county to be necessary or convenient to implement project plans and achieve their purposes, which agreements may include conditions, restrictions, or covenants that run with the land or that by other means regulate or restrict the use of land; and

(4) consistent with the project plan for the zone:

(A) acquire ~~[blighted, deteriorated, deteriorating, undeveloped, or inappropriately developed]~~ real property or other property in a blighted area, an undeveloped area, or in a federally assisted new community in the zone for the preservation or restoration of historic sites, beautification or conservation, the provision of public works or public facilities, or other public purposes;

(B) acquire, construct, reconstruct, or install public works, facilities, or sites or other public improvements, including utilities, streets, street lights, water and sewer facilities, pedestrian malls and walkways, parks, flood and drainage facilities, or parking facilities, but not including educational facilities; ~~[or]~~

(C) in a reinvestment zone created on or before September 1, 1999, acquire, construct, or reconstruct educational facilities in the municipality; or

(D) acquire by condemnation any interest, including a fee simple interest, in real property that is a blighted area and necessary for the reinvestment zone.

(e) A municipality or county may acquire by condemnation an interest in real property only if the taking is in accordance with Chapter 2206, Government Code [The implementation of a project plan to alleviate a condition described by Section 311.005(a)(1), (2), or (3) and to promote development or redevelopment of a reinvestment zone in accordance with this chapter serves a public purpose].

SECTION __. Section 311.008(c), Tax Code, is repealed.

SECTION __. The changes in law made by this Act apply only to a condemnation proceeding in which the petition is filed on or after the effective date of this Act and to any property condemned through the proceeding. A condemnation

proceeding in which the petition is filed before the effective date of this Act and any property condemned through the proceeding is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

The amendment to **HB 3057** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

Senator Van de Putte, on behalf of Senator Gallegos, offered the following amendment to the bill:

Floor Amendment No. 2

Amend **HB 3057** as follows:

(1) On page __, between lines __ and __ insert a new SECTION __ of the bill as follows:

"SECTION __. Section 214.003, Local Government Code, is amended by amending Subsections (a), (b), (h), (k), (l), (n), (o), and (p) and adding Subsection (h-1) to read as follows:

(a) A home-rule municipality may bring an action in district court against an owner of [~~residential~~] property that is not in substantial compliance with the municipal ordinances regarding:

- (1) fire protection;
- (2) structural integrity;
- (3) zoning; or
- (4) disposal of refuse.

(b) Except as provided by Subsection (c), the court may appoint as a receiver for the property a nonprofit organization with a demonstrated record of rehabilitating [~~residential~~] properties if the court finds that:

- (1) the structures on the property are in violation of the standards set forth in Section 214.001(b) and an ordinance described by Subsection (a);
- (2) notice of violation was given to the record owner of the property; and
- (3) a public hearing as required by Section 214.001(d) has been conducted.

(h) On the completion of the restoration of ~~to~~ the property to ~~of~~ the minimum code standards of the municipality or guidelines for rehabilitating historic property, or before petitioning a court for termination of the receivership under Subsection (l):

(1) the receiver shall file with the court a full accounting of all costs and expenses incurred in the repairs, including reasonable costs for labor and supervision, ~~and~~ all income received from the property, and, at the receiver's discretion, a receivership fee of 10 percent of those costs and expenses;

(2) if the income exceeds the total of the cost and expense of rehabilitation and any receivership fee, the rehabilitated property shall be restored to the owners and any net income shall be returned to the owners; and

(3) if the total of the costs and expenses and any receivership fee exceeds ~~exceed~~ the income received during the receivership, the receiver may ~~shall~~ maintain control of the property until the time all rehabilitation and maintenance costs and any receivership fee are recovered, or until the receivership is terminated.

(h-1) A receiver shall have a lien on the property under receivership for all of the receiver's unreimbursed costs and expenses and any receivership fee.

(k) The court may not appoint a receiver for any property that[:

~~[(1) is an owner-occupied, single-family residence]; or~~

~~[(2) is zoned nonresidential and used in a nonresidential character].~~

(l) A receiver appointed by a district court under this section, or the home-rule municipality that filed the action under which the receiver was appointed, may petition the court to terminate the receivership and order the sale of the property[:

~~[(1) if the receiver has been in control of the property for more than two years and no legal owner has been identified after a diligent search; or~~

~~[(2) after the receiver has been in control of the property for more than one year [three years], if an owner has been [identified and] served with notice [notices] but has failed to assume control or repay all rehabilitation and maintenance costs and any receivership fee of the receiver.~~

(n) The court may order the sale of the property if the court finds that:

(1) notice was given to each record owner of the property and each lienholder of record;

(2) the receiver has been in control of the property for more than one year ~~[two years and no legal owner has been identified after a diligent search, or the receiver has been in control of the property for more than three years]~~ and an owner has ~~[been identified but has]~~ failed to repay all rehabilitation and maintenance costs and any receivership fee of the receiver; and

(3) no lienholder of record has intervened in the action and offered to repay the costs and any receivership fee of the receiver and assume control of the property.

(o) The court shall order the sale to be conducted by the petitioner in the same manner that a sale is conducted under Chapter 51, Property Code. If the record owners and lienholders are identified, notice of the date and time of the sale must be sent in the same manner as provided by Chapter 51, Property Code. If the owner cannot be located after due diligence, the owner may be served notice by publication. The receiver may bid on the property at the sale and may use a lien granted under Subsection (h-1) as credit toward the purchase. The petitioner shall make a report of the sale to the court.

(p) The court shall confirm the sale and order a distribution of the proceeds of the sale in the following order:

(1) court costs;

(2) costs and expenses of the receiver, and any lien held by the receiver; and

(3) other valid liens."

(2) Renumber subsequent SECTION appropriately.

(3) On page __, between lines __ and __ insert a new SECTION __ of the bill to read as follows:

"SECTION __. The changes in law made by this Act to Section 214.003, Local Government Code, apply only to a receivership established on or after the effective date of this Act. A receivership established before the effective date of this Act is governed by the law in effect when the receivership was established, and the former law is continued in effect for that purpose."

(4) Renumber remaining SECTION appropriately.

The amendment to **HB 3057** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2.

Senator West offered the following amendment to the bill:

Floor Amendment No. 3

Amend **HB 3057** (Senate committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION __. Chapter 373, Local Government Code, is amended by adding Section 373.0041 to read as follows:

Sec. 373.0041. TRANSFER OF CERTAIN PROPERTY AUTHORIZED. In addition to any work or activity conducted under Section 373.004, a municipality that has a population of 1.18 million or more and that has adopted a council-manager form of government may, as part of the municipality's community development program under this chapter, transfer real property that has a historic designation to a state university or university system for the purpose of establishing a public law school under Section 105.502, Education Code, that is designed to further the purposes listed by Section 373.002(b).

SECTION __. Subchapter J, Chapter 105, Education Code, is amended by adding Section 105.502 to read as follows:

Sec. 105.502. UNIVERSITY OF NORTH TEXAS SYSTEM SCHOOL OF LAW. (a) The board may establish and operate a school of law in the city of Dallas as a professional school of the University of North Texas System.

(b) In administering the law school, the board may prescribe courses leading to customary degrees offered at other leading American schools of law and may award those degrees.

(c) Until the University of North Texas at Dallas has been administered as a general academic teaching institution for five years, the board shall administer the law school as a professional school of the system. After that period, the law school shall become a professional school of the University of North Texas at Dallas. Until the law school becomes a professional school of the University of North Texas at Dallas, the law school is entitled to formula funding as if the law school were a professional school of a general academic teaching institution.

(d) Before the board establishes a law school under this section, but not later than June 1, 2008, the Texas Higher Education Coordinating Board shall prepare a feasibility study to determine the actions the system must take to obtain accreditation of the law school. The Texas Higher Education Coordinating Board shall deliver a copy of the study to the chair of each legislative standing committee or subcommittee with jurisdiction over higher education.

SECTION __. Subchapter B, Chapter 55, Education Code, is amended by adding Section 55.1765 to read as follows:

Sec. 55.1765. UNIVERSITY OF NORTH TEXAS SYSTEM; ADDITIONAL BONDS. (a) In addition to the other authority granted by this subchapter, the board of regents of the University of North Texas System may acquire, purchase, construct, improve, renovate, enlarge, or equip property, buildings, structures, or other facilities,

including roads and related infrastructure, for the law school established in the city of Dallas by the University of North Texas System, to be financed by the issuance of bonds in accordance with this subchapter, including bonds issued in accordance with a system-wide revenue financing program and secured as provided by that program, in an aggregate principal amount not to exceed \$30 million.

(b) The board of regents may pledge irrevocably to the payment of the bonds authorized by this section all or any part of the revenue funds of an institution, branch, or entity of the University of North Texas System, including student tuition charges. The amount of a pledge made under this subsection may not be reduced or abrogated while the bonds for which the pledge is made, or bonds issued to refund those bonds, are outstanding.

(c) If sufficient funds are not available to the board of regents to meet its obligations under this section, the board may transfer funds among institutions, branches, and entities of the University of North Texas System to ensure the most equitable and efficient allocation of available resources for each institution, branch, or entity to carry out its duties and purposes.

(d) Notwithstanding Subsection (a), the University of North Texas System may not issue bonds under this section for facilities at the law school established by the system until the date that the law school receives provisional or other appropriate accreditation by a recognized accrediting agency, as defined by Section 61.003. If the law school does not receive the provisional or other appropriate accreditation by January 1, 2010, the system's authority to issue bonds for the law school under this section expires on that date.

The amendment to **HB 3057** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 3.

On motion of Senator Janek and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 3057 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 3057 ON THIRD READING

Senator Janek moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3057** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

COMMITTEE SUBSTITUTE HOUSE BILL 2402 ON SECOND READING

On motion of Senator Wentworth, on behalf of Senator Brimer, and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 2402** at this time on its second reading:

CSHB 2402, Relating to the authority granted to certain property owners' associations in dedicatory instruments and restrictive covenants.

The bill was read second time.

Senator Wentworth, on behalf of Senator Brimer, offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 2402** as follows:

(1) In Section 2(a) of the bill, in proposed Subsection (a), Section 209.013, Property Code (committee printing page 1, lines 32 through 35), strike "prohibit the amendment of any provision of the dedicatory instrument by property owners' association after the developer no longer controls the association or the board of directors" and substitute "be amended during the period between the time the developer loses the majority of the voting rights or other form of control of the property owners' association and the time a new board of directors of the association assumes office following the loss of the majority of the voting rights or other form of control".

(2) In Section 2(b) of the bill (committee printing page 1 line 41), strike "created on or after" and substitute "created before, or, or after".

The amendment to **CSHB 2402** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

On motion of Senator Wentworth, on behalf of Senator Brimer, and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSHB 2402 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

**COMMITTEE SUBSTITUTE
HOUSE BILL 2402 ON THIRD READING**

Senator Wentworth, on behalf of Senator Brimer, moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2402** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE
HOUSE BILL 3382 ON SECOND READING**

On motion of Senator Uresti and by unanimous consent, Senate Rule 5.14(a) and the regular order of business were suspended to take up for consideration **CSHB 3382** at this time on its second reading:

CSHB 3382, Relating to providing certain computerized instructional material for blind and visually impaired students and students with dyslexia who are enrolled at public institutions of higher education.

The bill was read second time.

Senator Uresti offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 3382** (Senate committee report) by inserting the following subsection, and renumbering subsections of the bill accordingly:

(1) On page 2, between lines 36 and 37, insert the following:

(h) Notwithstanding any other provision of this section, a publisher or manufacturer is not required to comply with Subsection (c) of (f), as applicable, if coordinating board, using procedures and criteria adopted by coordinating board rule and based on information provided by the publisher or manufacture, determines that:

(1) compliance by the manufacturer or publisher would violate a law, rule, or regulation relating to copyrights; or

(2) the printed instructional material on which computerized files would be based is:

(A) out of print; or

(B) in a format that makes it impracticable to convert the material into an electronic format.

The amendment to **CSHB 3382** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

Senator Uresti offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSHB 3382** (Senate committee report) as follows:

Subchapter Z, Chapter 51, Education Code, Section 51.970(c) after "request" and before ".", strike "and may not impose any charge for providing the files".

The amendment to **CSHB 3382** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2.

Senator Zaffirini offered the following amendment to the bill:

Floor Amendment No. 3

Amend **CSHB 3382** (Senate committee printing) as follows:

(1) In SECTION 1 of the bill, in proposed Subdivision (1), Subsection (a), Section 51.970, Education Code (page 1, line 21), strike "printed".

(2) In SECTION 1 of the bill, in proposed Subsection (a), Section 51.970, Education Code (page 1, between lines 25 and 26), immediately following proposed Subdivision (2), insert the following:

(3) "Dyslexia" means a condition of dyslexia considered to be a disability under the Americans with Disabilities Act (42 U.S.C. Section 12101 et seq.) or Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. Section 794).

(3) In SECTION 1 of the bill, in proposed Subdivision (3), Subsection (a), Section 51.970, Education Code (page 1, line 26), strike "(3)" and substitute "(4)".

(4) In SECTION 1 of the bill, strike proposed Subdivision (4), Subsection (a), Section 51.970, Education Code (page 1, lines 28-31), and substitute the following:

(5) "Instructional material" means a printed textbook or other printed instructional material or a combination of a printed book and supplementary printed instruction material that:

(1) conveys information to or otherwise contributes to the learning process of a student; and

(2) was published on or after January 1, 2004.

(5) In SECTION 1 of the bill, in proposed Subdivision (5), Subsection (a), Section 51.970, Education Code (page 1, line 32), strike "(5)" and substitute "(6)".

(6) In SECTION 1 of the bill, in proposed Subsection (c), SECTION 51.970, Education Code (page 1, line 48), strike "printed".

(7) In SECTION 1 of the bill, in proposed Subsection (c), Section 51.970, Education Code (page 1, line 52), strike "computerized files based on" and substitute "a copy in an electronic format of".

(8) In SECTION 1 of the bill, in proposed Subsection (c), SECTION 51.970, Education Code (page 1, lines 53), strike "printed".

(9) In SECTION 1 of the bill, in proposed Subsection (c), Section 51.970, Education Code (page 1, line 54), strike "computerized files" and substitute "electronic copy".

(10) In SECTION 1 of the bill, in proposed Subsection (c), Section 51.970, Education Code (page 1, line 56), strike "files" and substitute "electronic copy".

(11) In SECTION 1 of the bill, in proposed Subdivision (1), Subsection (d), Section 51.970, Education Code (page 1, line 61), strike "computerized files" and substitute "copy of the material in an electronic format".

(12) In SECTION 1 of the bill, in proposed Subdivision (1), Subsection (e), Section 51.970, Education Code (page 2, line 9), strike "computerized files" and substitute "electronic copy".

(13) In SECTION 1 of the bill, in proposed Subdivision (2), Subsection (e), Section 51.970, Education Code (page 2, line 14), strike "computerized files or the printed instructional material" and substitute "electronic copy or instructional material".

(14) In SECTION 1 of the bill, in proposed Subdivision (2), Subsection (e), Section 51.970, Education Code (page 2, lines 15), strike "computerized files are based" and substitute "electronic copy is based".

(15) In SECTION 1 of the bill, in proposed Subsection (f), Section 51.970, Education Code (page 2, line 16), strike "The computerized files of the printed instructional" and substitute "Each electronic copy of instructional".

(16) In SECTION 1 of the bill, in proposed Paragraph (A), Subdivision (1), Subsection (f), SECTION 51.970, Education Code (page 1, line 20), strike "printed".

(17) In SECTION 1 of the bill, in proposed Subdivision (2), Subsection (f), Section 51.970, Education Code (page 2, line 29), strike "computerized files are" and substitute "electronic copy is".

(18) In SECTION 1 of the bill, in proposed Subsection (g), Section 51.970, Education Code (page 2, lines 33-35), strike "computerized files in American Standard Code for Information Interchange (ASCII) text or an equivalent text and in a format" and substitute "electronic copy of the instructional material in a format that can be read by a word processing application and".

(19) In SECTION 1 of the bill, in proposed Subsection (h), Section 51.970, Education Code (page 2, line 38), between "penalty" and "against" insert "not to exceed \$250 per violation".

(20) In SECTION 1 of the bill, in proposed Subsection (i), Section 51.970, Education Code (page 2, line 51), strike "impaired and an advocacy organization for persons with dyslexia" and substitute "impaired, an advocacy organization for persons with dyslexia, representatives from one or more instructional material publishing companies or publishing associations, and institutions of higher education".

(21) In SECTION 1 of the bill, in proposed Subdivision (2), Subsection (i), Section 51.970, Education Code (page 2, line 58), strike "computerized files" and substitute "electronic copies of instructional material".

(22) In Subsection (a), SECTION 2 of the bill (page 2, line 62), strike "computerized files" and substitute "electronic copies".

The amendment to **CSHB 3382** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 3.

Senator Van de Putte offered the following amendment to the bill:

Floor Amendment No. 4

Amend **CSHB 3382** by adding the following appropriately numbered new SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION ____. Subchapter Z, Chapter 51, Education Code, is amended by adding Section 51.949 to read as follows:

Sec. 51.949. INFORMATION FOR BOOKSTORES RELATING TO INSTRUCTIONAL MATERIALS. (a) In this section:

(1) "Institution of higher education" has the meaning assigned by Section 61.003.

(2) "Instructional materials" means any printed or computer-generated educational material, including textbooks, or any equipment or supplies that a student is required or recommended to use in connection with a course.

(3) "University-affiliated bookstore" means a store that sells instructional materials, regardless of whether the store is located on the campus of an institution of higher education, and that is operated by or with the approval of the institution through ownership or through a management, lease, rental, or similar agreement.

(b) This section does not apply to an institution of higher education with a university-affiliated bookstore if the bookstore is owned and operated by the institution.

(c) Each institution of higher education shall make available for public inspection through the Internet or in person a list of required or recommended instructional materials for a semester or other academic term at the same time the institution provides the list to the operator of a university-affiliated bookstore.

(d) To the extent that space for an activity described by this subsection is available, an institution of higher education shall provide to a retailer or other provider of instructional materials that holds a sales tax permit issued to the provider under Subchapter F, Chapter 151, Tax Code, the same opportunity as an operator of a university-affiliated bookstore to participate in any programs related to the dissemination or provision of instructional materials for students of the institution, including providing information at student orientation or participating in a program of repurchasing instructional materials. If sufficient space is not available for each provider of instructional materials, other than an operator of a university-affiliated bookstore, that holds a sales tax permit and that applies to participate in an activity described by this subsection, the institution shall provide the available space in the same order as those providers applied to participate in the activity.

(e) An institution of higher education may charge to a provider of instructional materials, other than an operator of a university-affiliated bookstore, a reasonable fee for participation in an activity described by Subsection (d).

(f) If an institution of higher education works in conjunction with a university-affiliated bookstore to provide a method for the extension of credit or the ability of a student to charge or otherwise delay the payment of the costs of instructional materials, including the extension of credit under Section 51.929(b), the institution shall provide to any other provider of instructional materials to students of the institution that holds a sales tax permit issued to the provider under Subchapter F, Chapter 151, Tax Code, equal access and opportunity to use or develop the same or similar method of payment at a reasonable cost to that person.

(g) Subsection (f) does not restrict an institution of higher education from adopting or enforcing a policy that is necessary to ensure the institution's compliance with a rule or policy of the National Collegiate Athletic Association or of another organization governing intercollegiate athletic competition of which the institution is a member.

SECTION _____. (a) Section 51.949, Education Code, as added by this Act, applies only to a semester or term that begins on or after the effective date of this Act.

(b) Section 51.949, Education Code, as added by this Act, does not affect the terms of a contract entered into before the effective date of this Act.

(c) As soon as practicable on or after the effective date of this Act, each public institution of higher education to which Section 51.949, Education Code, as added by this Act, applies shall designate an officer or employee of the institution to ensure the institution's compliance with that section.

The amendment to **CSHB 3382** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 4.

On motion of Senator Uresti and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSHB 3382 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

**COMMITTEE SUBSTITUTE
HOUSE BILL 3382 ON THIRD READING**

Senator Uresti moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 3382** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE
HOUSE BILL 3826 ON SECOND READING**

On motion of Senator Zaffirini and by unanimous consent, Senate Rule 5.14(a) and the regular order of business were suspended to take up for consideration **CSHB 3826** at this time on its second reading:

CSHB 3826, Relating to high school curriculum requirements for admission to public institutions of higher education and to the admission to public institutions of higher education of the children of certain public servants killed in the line of duty.

The bill was read second time.

Senator Shapiro offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 3826** (Senate committee printing) as follows:

(1) In SECTION 1 of the bill, strike amended Subdivision (2), Subsection (a), Section 51.803, Education Code (page 1, lines 28-39), and substitute the following:

(2) the applicant successfully completed:

(A) at a public high school, the curriculum requirements established under Section 28.025 for the recommended or advanced high school program; or

(B) at a high school to which Section 28.025 does not apply, a curriculum that is equivalent in content and rigor to the recommended or advanced high school program; and

(2) In SECTION 1 of the bill, in amended Subsection (b), Section 51.803, Education Code (page 1, line 48), between "(b)" and "An applicant", insert "Subsection (a)(2) does not apply to an applicant who graduates from a high school that does not have the curriculum described by that subsection."

(3) In SECTION 1 of the bill, in amended Subsection (b), Section 51.803, Education Code (page 1, line 49), strike "Subsection (a)(2)(A)(i) or (ii)" and substitute "Subsection (a)(2)(A) or (B)".

(4) In SECTION 1 of the bill, in added Subsection (d), Section 51.803, Education Code (page 2, lines 6 and 7), strike "Subsection (a)(2)(A)(i) or (ii)" and substitute "Subsection (a)(2)(A) or (B)".

(5) In SECTION 2 of the bill, strike amended Subdivision (2), Section 51.804, Education Code (page 2, lines 47-50), and substitute the following:

(2) satisfies the requirements of Sections 51.803(c) and (d) and:

(A) satisfies the requirements of Section 51.803(a)(2) or (b), as applicable to the student; or

(B) satisfied ACT's College Readiness Benchmarks on the ACT assessment applicable to the applicant or earned on the SAT assessment a score of at least 1,500 out of 2,400 or the equivalent.

(6) In SECTION 3 of the bill, strike amended Subsection (a), Section 51.805, Education Code (page 2, lines 53-58), and substitute the following:

(a) A graduating student who does not qualify for admission under Section 51.803 or 51.804 may apply to any general academic teaching institution if the student satisfies the requirements of Sections 51.803(c) and (d) and:

(1) satisfies the requirements of Section 51.803(a)(2) or (b), as applicable to the student; or

(2) satisfied ACT's College Readiness Benchmarks on the ACT assessment applicable to the applicant or earned on the SAT assessment a score of at least 1,500 out of 2,400 or the equivalent.

The amendment to **CSHB 3826** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

Senator West, on behalf of Senator Ogden, offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSHB 3826**, by adding the following appropriately numbered SECTIONS to the bill and renumbering the remaining SECTIONS of the bill accordingly:

SECTION __. Subchapter D, Chapter 54, Education Code, is amended by adding Section 54.202 to read as follows:

Sec. 54.202. TOP 10 PERCENT HIGH SCHOOL GRADUATES. (a) This section only applies to a person who qualifies for automatic admission under Section 51.803.

(b) Each general academic teaching institution shall exempt a person to whom this section applies from the payment of tuition and special course fees, lab fees, and student teaching fees.

(c) The exemption from tuition under Subsection (b) does not apply to designated tuition charged under Section 54.0513.

(d) In order to continue to receive an exemption under this section after the person has received an exemption under this section for two or more academic years or the equivalent, a person must:

(1) enroll for a full course load for an undergraduate student, as determined by the coordinating board, in an undergraduate degree or certificate program at a general academic teaching institution; and

(2) have a cumulative grade point average of at least 2.5 on a four-point scale or the equivalent on all coursework previously attempted at institutions of higher education, if the person is enrolled in any academic year after the person's second academic year.

(e) The legislature shall account in the General Appropriations Act for the exemptions authorized by Subsection (b) in a way that provides a corresponding increase in the general revenue funds appropriated to the institution.

(f) The legislature may appropriate money to the Texas Higher Education Coordinating Board to be used to reimburse general academic teaching institutions for reducing as provided by this subsection the amount of designated tuition charged under Section 54.0513 to persons receiving exemptions from tuition and fees under Subsection (b). Based on the amount of appropriations under this subsection available for each academic year, the coordinating board shall estimate the amount by which the designated tuition charged under Section 54.0513 to each person who receives an exemption from tuition and fees under Subsection (b) in that academic year may be reduced from the amount that the applicable institution would otherwise charge the person. The coordinating board shall distribute the amount of appropriations under this subsection available for the academic year to general academic teaching institutions in proportion to the number of semester credit hours for which the coordinating board estimates students will receive exemptions under Subsection (b) in that academic year at each institution. Each general academic teaching institution that receives money under this section shall reduce the amount of designated tuition charged to each student who receives an exemption under Subsection (b) by the amount determined by the coordinating board for that academic year.

SECTION __. The change in law made by this Act in adding Section 54.202, Education Code, applies beginning with tuition, fees, and other charges for the 2008 fall semester. Tuition, fees, and other charges for a term or semester before the 2008 fall semester are covered by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

The amendment to **CSHB 3826** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2 except as follows:

Nays: Wentworth.

On motion of Senator Zaffirini and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSHB 3826 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

COMMITTEE SUBSTITUTE HOUSE BILL 3826 ON THIRD READING

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 3826** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

SESSION TO CONSIDER EXECUTIVE APPOINTMENTS

The Presiding Officer, Senator Brimer in Chair, announced the time had arrived to consider executive appointments to agencies, boards, and commissions. Notice of submission of these names for consideration was given Monday, May 21, 2007, by Senator Jackson.

Senator Jackson moved confirmation of the nominees reported Monday by the Committee on Nominations.

The Presiding Officer asked if there were requests to sever nominees.

There were no requests offered.

NOMINEES CONFIRMED

The following nominees, as reported by the Committee on Nominations, were confirmed by the following vote: Yeas 31, Nays 0.

Member, Advisory Committee to the Texas Board of Criminal Justice on Offenders with Medical or Mental Impairments: Gabriel Holguin, Ph.D., Bexar County.

Members, Aging and Disability Services Council: Sharon Swift Butterworth, El Paso County; John A. Cuellar, Dallas County; Jean L. Freeman, Ph.D., Galveston County; Nancy L. Lund, Bowie County.

Members, Angelina and Neches River Authority Board of Directors: Louis Alan Bronaugh, Angelina County; Greg James, Nacogdoches County.

Members, Assistive and Rehabilitative Services Council: David Coco, Williamson County; Timothy J. Flannery, Harris County; Lance L. Goetz, M.D., Dallas County; Connie Hughes, Lubbock County; Joseph Muniz, Cameron County; Diane Marie Novy, Fort Bend County; Robert K. Peters, Smith County; Robin Riccardi, Harris County.

Members, Automobile Theft Prevention Authority: Carlos Luis Garcia, Cameron County; Jason Hartgraves, Denton County; Cindy Ramos-Davidson, El Paso County; Richard L. Watson, Travis County.

Presiding Officer, Central Texas Regional Mobility Authority Board of Directors: Robert E. "Bob" Tesch, Williamson County.

Members, Coastal Coordination Council: Robert Elliott Jones, Nueces County; James R. Matz, Cameron County; Victor Ray Pierson, Galveston County; John L. Sullivan, Galveston County.

Members, Council on Cardiovascular Disease and Stroke: Carolyn Hutchinson, Cameron County; Sheila M. Tello, Nueces County.

Members, Credit Union Commission: William Wayne "Rusty" Ballard II, Ellis County; Thomas Felton Butler, Harris County; Manuel Cavazos IV, Travis County; Dale E. Kimble, Denton County; Allyson Truax Morrow, Cameron County.

Members, Finance Commission of Texas: Jonathan Bennett Newton, Harris County; Stanley D. Rosenberg, Bexar County.

Members, Guadalupe-Blanco River Authority Board of Directors: Grace G. Kunde, Guadalupe County; Tilmon Lee Walker, Comal County.

Members, Health and Human Services Council: Kathleen Angel, Travis County; Mi Yun "Maryann" Choi, M.D., M.P.H., Williamson County; Fernando M. Treviño, Tarrant County; Robert A. Valadez, Bexar County.

Members, Nueces River Authority Board of Directors: Yale Leland Kerby, Uvalde County; Lindsey Alfred Koenig, Jim Wells County; James R. Marmion, Dimmit County; Rolando B. Pablos, Bexar County; Betty Ann Howard Peden, Medina County; Fidel R. Rul, Jr., Jim Wells County.

Inspector General, Office of Inspector General for the Health and Human Services Commission: Brian Glenn Flood, Travis County.

Member, Parks and Wildlife Commission: Mark Bivins, Randall County.

Pecos River Compact Commissioner for Texas: Julian W. "J. W." Thrasher, Jr., Ward County.

Member, Sabine River Authority Board of Directors: Stanley N. Mathews, Orange County.

Members, State Seed and Plant Board: Aubrey James Allison, Burnet County; Kelly A. Book, Bastrop County; Mark A. Hussey, Brazos County; Ellen B. Peffley, Lubbock County.

Members, State Soil and Water Conservation Board: Larry D. Jacobs, Montgomery County; Joe L. Ward, Fannin County.

Members, Texas Statewide Emergency Services Personnel Retirement Fund State Board of Trustees: Patrick James Hull, Lavaca County; Francisco "Frank" Torres, Willacy County.

Members, Sulphur River Basin Authority Board of Directors: Brad Drake, Lamar County; Mike E. Russell, Lamar County; Richard Douglas "Doug" Smith, Red River County.

Members, Texas Agricultural Finance Authority Board of Directors: Darwin Dallas "Dal" DeWees, Tom Green County; Sydney Michael "Mike" Golden, Brazoria County; Susan Kay Kennedy, Nacogdoches County; Victoria Salin, Brazos County.

Members, Texas Appraiser Licensing and Certification Board: William A. Faulk, Jr., Cameron County; Larry D. Kokel, Williamson County; James B. Ratliff, Dallas County; Shirley J. Ward, Brewster County.

Members, Texas Board of Chiropractic Examiners: Kenneth Mack Perkins, D.C., Montgomery County; Kathleen S. Summers, D.C., Andrews County; Kenya S. Woodruff, Collin County.

Members, Texas Board of Criminal Justice: Charles Lewis Jackson, Harris County; Tom Mechler, Armstrong County; Leopoldo R. Vasquez III, Harris County.

Members, Texas Board of Orthotics and Prosthetics: Erin Elizabeth Berling, Dallas County; Kenneth Mueller, Washington County; Richard Michael Neider, Lubbock County.

Members, Texas Board of Professional Land Surveying: Nedra J. Foster, Hardin County; Paul P. Kwan, Harris County; Anthony Trevino, Jr., Webb County; Douglas William Turner, Galveston County.

Members, Texas Department of Housing and Community Affairs Board: Dionicio Vidal Flores, Harris County; Gloria L. Ray, Bexar County.

Members, Texas Diabetes Council: Maria Duarte-Gardea, El Paso County; Dora Rivas, Dallas County.

Members, Texas Farm and Ranch Lands Conservation Council: Daniel Dierschke, Travis County; Thomas R. Kelsey, Harris County, Bob McCan, Victoria County; Glen David Webb, Taylor County; R. Neal Wilkins, Brazos County.

Members, Texas Forensic Science Commission: Samuel E. Bassett, Travis County; Alan L. Levy, Tarrant County; Sridhar Natarajan, Lubbock County.

Members, Texas Military Preparedness Commission: William J. Ehrie, Taylor County; Howard C. Ham, Jr., Bexar County; Ronald D. Henson, Bowie County; Alvin W. Jones, Brazos County; James P. Maloney, El Paso County; Samuel Loyd Neal, Jr., Nueces County; Paul F. Paine, Parker County; Charles E. Powell, Tom Green County; Josue Robles, Jr., Bexar County; Eugene N. Tulich, Harris County.

Members, Texas Optometry Board: Carolyn R. Carman-Merrifield, Tarrant County; Melvin G. Cleveland, Jr., Tarrant County; John Coble, O.D., Rockwall County; Virigina Sosa, O.D., Uvalde County.

Members, Texas Physician Assistant Board: Margaret K. Bentley, Dallas County; Ron Bryce, M.D., Ellis County; Anna Arredondo Chapman, Val Verde County; Dwight M. Deter, El Paso County; Michael Allen Mitchell, D.O., Clay County; Richard R. Rahr, Galveston County; Timothy Webb, Harris County; Pamela Welch, Franklin County.

Members, Texas Public Finance Authority Board of Directors: Carin Marcy Barth, Harris County; D. Joseph Meister, Dallas County; Robert Thomas "Tom" Roddy, Jr., Bexar County; Ruth Corry Schiermeyer, Lubbock County.

Member, Texas Racing Commission: David Gregorio Cabrales, Dallas County.

Members, Texas State Affordable Housing Corporation Board of Directors: Jesse A. Coffey, Denton County; Thomas A. Leeper, Walker County; Jo Van Hovel, Bell County.

Members, Texas State Board of Acupuncture Examiners: Chung-Hwei Chernly, Tarrant County; Donald Ray Counts, M.D., Travis County; Pedro V. Garcia, Jr., Collin County; Raymond J. Graham, El Paso County; Meng-Sheng Linda Lin, Collin County.

Members, Texas State Board of Examiners of Marriage and Family Therapists: Kaye W. Nelson, Nueces County; Michael R. Puhl, Collin County.

Members, Texas State Board of Plumbing Examiners: Enrique Castro, El Paso County; Ricardo Jose Guerra, Travis County; Carol Lynne McLemore, Galveston County.

Members, Texas State Board of Social Worker Examiners: Kimberly Hernandez, El Paso County; Dorinda N. Noble, Hays County.

Members, Texas Underground Facility Notification Corporation Board of Directors: Dean D. Bernal, Travis County; John Dao, Harris County; Billy Ray Daugette, Jr., Walker County; Deborah Ellison Farris, Dallas County; Steven F. Landon, Tarrant County; John A. Menchaca II, Travis County; Virginio Ortega, Lubbock County; Christopher J. Rourk, Dallas County.

Member, Texas Woman's University Board of Regents: Cecilia May Moreno, Webb County.

Members, Upper Colorado River Authority Board of Directors: Fred R. Campbell, Concho County; Ralph Edward Hoelscher, Runnels County; William Ray Hood, Coke County; Hope Wilson Huffman, Tom Green County; John Nikolauk, Schleicher County; Jeffie Harmon Roberts, Coke County; Hyman Dale Sauer, Schleicher County; Dorris Sonnenberg, Coke County.

GUESTS PRESENTED

Senator Zaffirini was recognized and introduced to the Senate Cassandra Carrizales, 2007 Youth of the Year from Zapata, accompanied by her parents.

The Senate welcomed its guests.

HOUSE JOINT RESOLUTION 6 ON SECOND READING

On motion of Senator Wentworth and by unanimous consent, the regular order of business was suspended to take up for consideration **HJR 6** at this time on its second reading:

HJR 6, Proposing a constitutional amendment authorizing the denial of bail to a person who violates certain court orders or conditions of release in a felony or family violence case.

The resolution was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE JOINT RESOLUTION 6 ON THIRD READING

Senator Wentworth moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HJR 6** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The resolution was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE
HOUSE BILL 581 ON SECOND READING**

Senator Van de Putte moved to suspend the regular order of business to take up for consideration **CSHB 581** at this time on its second reading:

CSHB 581, Relating to exempting from certain employment restrictions the employment of certain children engaged in the direct sale of newspapers to the general public.

The motion prevailed.

Senator Jackson asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time and was passed to third reading by a viva voce vote.

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

Nays: Jackson.

**COMMITTEE SUBSTITUTE
HOUSE BILL 581 ON THIRD READING**

Senator Van de Putte moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 581** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Jackson.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 1. (Same as previous roll call)

HOUSE BILL 971 ON SECOND READING

Senator Uresti moved to suspend the regular order of business to take up for consideration **HB 971** at this time on its second reading:

HB 971, Relating to a documented member of the Kickapoo Traditional Tribe of Texas hunting certain deer.

The motion prevailed.

Senators Jackson and Patrick asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time and was passed to third reading by a viva voce vote.

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

Nays: Jackson, Patrick.

HOUSE BILL 971 ON THIRD READING

Senator Uresti moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 971** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 2.

Yeas: Averitt, Brimer, Carona, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hegar, Hinojosa, Janek, Lucio, Nelson, Nichols, Ogden, Seliger, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Jackson, Patrick.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 2. (Same as previous roll call)

HOUSE BILL 866 ON SECOND READING

Senator West moved to suspend the regular order of business to take up for consideration **HB 866** at this time on its second reading:

HB 866, Relating to local control of firefighter and police officer employment matters in certain municipalities.

The motion prevailed.

Senators Fraser, Harris, Jackson, Nelson, Nichols, Patrick, Seliger, Shapiro, and Wentworth asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time.

Senator West offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 866** (Senate committee printing) in SECTION 1 of the bill as follows:

(1) In added Subdivision (2), Section 147.002, Local Government Code, strike added Paragraph (A) (page 1, lines 28 through 30), and substitute the following:

(A) in which firefighters of the municipality have participated and paid dues via automatic payroll deduction for at least one year; and

(2) In added Subdivision (4), Section 147.002, Local Government Code, strike added Paragraph (A) (page 1, lines 42 through 44), and substitute the following:

(A) in which at least three percent of the police officers of the municipality have participated and paid dues via automatic payroll deduction for at least one year; and

(3) Immediately following added Section 147.003, Local Government Code (page 2, between lines 15 and 16), insert the following:

Sec. 147.0031. PETITION FOR RECOGNITION: ELECTION OR ACTION BY GOVERNING BODY. (a) Not later than the 30th day after the date the governing body of a municipality receives from the meet and confer team a petition signed by a majority of all police officers and a majority of all firefighters, excluding the head of

the police department, the head of the fire department, and other excluded employees as described by Section 147.0035(b), that requests recognition of the meet and confer team as the sole and exclusive bargaining agent for all the police officers and firefighters employed by the municipality, excluding the head of the police department, the head of the fire department, and other excluded employees as described by Section 147.0035(b), the governing body shall:

(1) grant recognition of the meet and confer team as requested in the petition and determine by majority vote that the municipality may meet and confer under this chapter without conducting an election by the voters in the municipality under Section 147.0033;

(2) defer granting recognition of the meet and confer team and order an election by the voters in the municipality under Section 147.0033 regarding whether the municipality may meet and confer under this chapter; or

(3) order a certification election under Section 147.0032 to determine whether the employee groups in the meet and confer team represent a majority of the covered police officers and a majority of the covered firefighters.

(b) If the governing body of a municipality orders a certification election under Subsection (a)(3) and the employee groups that are part of the meet and confer team are certified to represent a majority of the covered police officers and a majority of the covered firefighters, the governing body shall, not later than the 30th day after the date that results of that election are certified:

(1) grant recognition of the meet and confer team as requested in the petition for recognition and determine by majority vote that the municipality may meet and confer under this chapter without conducting an election by the voters in the municipality under Section 147.0033; or

(2) defer granting recognition of the meet and confer team and order an election by the voters in the municipality under Section 147.0033 regarding whether a public employer may meet and confer under this chapter.

Sec. 147.0032. CERTIFICATION ELECTION. (a) Except as provided by Subsection (b), a certification election ordered under Section 147.0031(a)(3) to determine whether the employee groups in the meet and confer team represent a majority of the covered police officers and a majority of the covered firefighters shall be conducted according to procedures agreeable to the parties.

(b) If the parties are unable to agree on procedures for the certification election, either party may request the American Arbitration Association to conduct the election and to certify the results of the election.

(c) Certification of the results of an election under this section resolves the question concerning representation.

(d) Each employee group in the meet and confer team is liable for the expenses of the certification election for the employees the group represents.

Sec. 147.0033. ELECTION TO AUTHORIZE OPERATING UNDER THIS CHAPTER. (a) The governing body of a municipality that receives a petition for recognition under Section 147.0031 may order an election to determine whether a public employer may meet and confer under this chapter.

(b) An election ordered under this section must be held as part of the next regularly scheduled general election for municipal officials that is held after the date the governing body of the municipality orders the election and that allows sufficient time to prepare the ballot in compliance with other requirements of law.

(c) The ballot for an election ordered under this section shall be printed to permit voting for or against the proposition: "Authorizing _____ (name of the municipality) to operate under the state law allowing a municipality to meet and confer and make agreements with the meet and confer team representing municipal police officers and firefighters as provided by state law, preserving the prohibition against strikes and organized work stoppages, and providing penalties for strikes and organized work stoppages."

(d) An election called under this section must be held and the returns prepared and canvassed in conformity with the Election Code.

(e) If an election authorized under this section is held, the municipality may operate under the other provisions of this chapter only if a majority of the votes cast at the election favor the proposition.

(f) If an election authorized under this section is held, a meet and confer team may not submit a petition for recognition to the governing body of the municipality under Section 147.0031 before the second anniversary of the date of the election.

Sec. 147.0034. WITHDRAWAL OF RECOGNITION. (a) The police officers and firefighters may withdraw the recognition of the meet and confer team granted under this chapter by filing with the governing body of the municipality a petition signed by a majority of all covered police officers and a majority of all covered firefighters.

(b) The governing body of the municipality may:

(1) withdraw recognition as provided by the petition; or

(2) order a certification election in accordance with Section 147.0032 regarding whether to do so.

Sec. 147.0035. RECOGNITION OF MEET AND CONFER TEAM. (a) A public employer in a municipality that chooses to meet and confer under this chapter shall recognize the meet and confer team that is recognized under Section 147.0031 or 147.0033 as the sole and exclusive bargaining agent for the police officers and firefighters, excluding the head of the police department, head of the fire department, and the employees exempt under Subsection (b), in accordance with this chapter and the petition.

(b) For the purposes of Subsection (a), exempt employees are employees appointed by the head of the police department or fire department in the classification immediately below that of department head or that are exempt by the mutual agreement of the meet and confer team and the municipality.

(c) The municipality shall recognize the meet and confer team until recognition of the meet and confer team is withdrawn in accordance with Section 147.0034 by a majority of the police officers and a majority of the firefighters who are eligible to sign a petition for recognition.

(4) In added Subsection (a), Section 147.004, Local Government Code (page 2 lines 20 and 21), between "meet and confer team" and "come to a mutual agreement", insert "recognized under Section 147.0031 or 147.0033 as the sole and exclusive bargaining agent for the covered police officers and firefighters".

(5) Strike added Subsection (b), Section 147.006, Local Government Code (page 2, lines 56 through 58).

(6) In added Subsection (c), Section 147.006, Local Government Code (page 2, line 59), strike "(c)" and substitute "(b)".

(7) Immediately following added Section 147.008, Local Government Code (page 3, between lines 26 and 27), insert the following:

Sec. 147.009. ACTION OR ELECTION TO REPEAL AUTHORIZATION TO OPERATE UNDER THIS CHAPTER. (a) The governing body of a municipality that granted recognition of a meet and confer team under Section 147.0031 without conducting an election under Section 147.0033 may withdraw recognition of the meet and confer team by providing to the meet and confer team not less than 90 days' written notice that:

(1) the governing body is withdrawing recognition of the meet and confer team; and

(2) any agreement between the governing body and the meet and confer team will not be renewed.

(b) The governing body of a municipality that granted recognition of a meet and confer team after conducting an election under Section 147.0033 may order an election to determine whether a public employer may continue to meet and confer under this chapter. The governing body may not order an election under this subsection until the second anniversary of the date of the election under Section 147.0033.

(c) An election ordered under Subsection (b) must be held as part of the next regularly scheduled general election for municipal officers that occurs after the date the governing body of the municipality orders the election and that allows sufficient time to prepare the ballot in compliance with other requirements of law.

(d) The ballot for an election ordered under Subsection (b) shall be printed to allow voting for or against the proposition: "Authorizing _____ (name of the municipality) to continue to operate under the state law allowing a municipality to meet and confer and make agreements with the meet and confer team representing municipal police officers and firefighters as provided by state law, preserving the prohibition against strikes and organized work stoppages, and providing penalties for strikes and organized work stoppages."

(e) An election ordered under Subsection (b) must be held and the returns prepared and canvassed in conformity with the Election Code.

(f) If an election ordered under Subsection (b) is held, the municipality may continue to operate under this chapter only if a majority of the votes cast at the election favor the proposition.

(g) If an election ordered under Subsection (b) is held, a meet and confer team may not submit a petition for recognition to the governing body of the municipality under Section 147.0031 before the second anniversary of the date of the election.

Sec. 147.010. ELECTION TO REPEAL AGREEMENT. (a) Not later than the 60th day after the date a meet and confer agreement is ratified by the governing body of the municipality and the firefighters and police officers under 147.008, a petition calling for the repeal of the agreement signed by a number of registered voters residing in the municipality equal to at least 10 percent of the votes cast at the most recent general election held in the municipality may be presented to the person charged with ordering an election under Section 3.004, Election Code.

(b) If a petition is presented under Subsection (a), the governing body of the municipality shall:

(1) repeal the meet and confer agreement; or

(2) certify that the governing body is not repealing the agreement and call an election to determine whether to repeal the agreement.

(c) An election called under Subsection (b)(2) may be held as part of the next regularly scheduled general election for the municipality. The ballot shall be printed to provide for voting for or against the proposition: "Repeal the meet and confer agreement ratified on _____ (date agreement was ratified) by the (name of the governing body of the municipality) and the police officers and firefighters employed by the City of _____ (name of municipality) concerning wages, salaries, rates of pay, hours of work, and other terms of employment."

(d) If a majority of the votes cast at the election favor the repeal of the agreement, the agreement is void.

Sec. 147.010. EFFECT ON EXISTING BENEFITS AND RIGHTS. (a) This chapter may not be construed to repeal any existing benefit provided by statute or ordinance concerning police officers' or firefighters' compensation, pensions, retirement plans, hours of work, conditions of employment, or other emoluments except as expressly provided in a ratified meet and confer agreement. This chapter is in addition to the benefits provided by existing statutes and ordinances.

(b) This chapter may not be construed to interfere with the free speech right, guaranteed by the First Amendment to the United States Constitution, of an individual firefighter or a police officer to endorse or dissent from any agreement.

The amendment to **HB 866** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

On motion of Senator West and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 866 as amended was passed to third reading by a viva voce vote.

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

Nays: Fraser, Harris, Jackson, Nelson, Nichols, Patrick, Seliger, Shapiro, Wentworth.

HOUSE BILL 866 ON THIRD READING

Senator West moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 866** be placed on its third reading and final passage.

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

Yeas: Averitt, Brimer, Carona, Deuell, Duncan, Ellis, Eltife, Estes, Gallegos, Hegar, Hinojosa, Jackson, Janek, Lucio, Nichols, Patrick, Shapleigh, Uresti, Van de Putte, Watson, West, Whitmire, Williams, Zaffirini.

Nays: Fraser, Harris, Nelson, Seliger, Shapiro, Wentworth.

Absent: Ogden.

The bill was read third time and was passed by the following vote: Yeas 21, Nays 9.

Yeas: Averitt, Brimer, Carona, Deuell, Duncan, Ellis, Eltife, Estes, Gallegos, Hegar, Hinojosa, Janek, Lucio, Shapleigh, Uresti, Van de Putte, Watson, West, Whitmire, Williams, Zaffirini.

Nays: Fraser, Harris, Jackson, Nelson, Nichols, Patrick, Seliger, Shapiro, Wentworth.

Absent: Ogden.

GUESTS PRESENTED

Senator Van de Putte was recognized and introduced to the Senate eighth-grade students from Cooper Middle School in San Antonio, accompanied by their principal, Maria Yesenia Saenz, and teachers, Elizabeth Diaz, Nancy Regalada, and Dolores A. Martinez.

The Senate welcomed its guests.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1960 ON SECOND READING**

On motion of Senator Hinojosa and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 1960** at this time on its second reading:

CSHB 1960, Relating to access to records or files concerning a child who is subject to the juvenile justice system.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1960 ON THIRD READING**

Senator Hinojosa moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1960** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**MOTION TO PLACE
COMMITTEE SUBSTITUTE
HOUSE BILL 2184 ON SECOND READING**

Senator Watson moved to suspend the regular order of business to take up for consideration **CSHB 2184** at this time on its second reading:

CSHB 2184, Relating to the right of certain municipalities to maintain local control over wages, hours, and other terms and conditions of employment.

The motion was lost by the following vote: Yeas 18, Nays 10. (Not receiving two-thirds vote of Members present)

Yeas: Averitt, Brimer, Carona, Deuell, Ellis, Gallegos, Hegar, Hinojosa, Janek, Lucio, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Zaffirini.

Nays: Eltife, Estes, Fraser, Harris, Jackson, Nelson, Nichols, Patrick, Seliger, Shapiro.

Absent: Duncan, Ogden, Williams.

**COMMITTEE SUBSTITUTE
HOUSE BILL 426 ON SECOND READING**

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 426** at this time on its second reading:

CSHB 426, Relating to standards for the operation of school district disciplinary alternative education programs.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

**COMMITTEE SUBSTITUTE
HOUSE BILL 426 ON THIRD READING**

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 426** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1801 ON SECOND READING**

On motion of Senator Hegar and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 1801** at this time on its second reading:

CSHB 1801, Relating to the date by which a prosecuting attorney may appeal certain orders, rulings, or sentences in a criminal case and to the posting of notice for a criminal court docket.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1801 ON THIRD READING**

Senator Hegar moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1801** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 1671 ON SECOND READING

On motion of Senator Seliger and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1671** at this time on its second reading:

HB 1671, Relating to limiting the authority of a property owner to erect a gate on certain third-class and neighborhood roads.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 1671 ON THIRD READING

Senator Seliger moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1671** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1988 ON SECOND READING**

On motion of Senator Hinojosa and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 1988** at this time on its second reading:

CSHB 1988, Relating to the issuance of a protective order for a victim of the offense of sexual assault, aggravated sexual assault, or indecency with a child.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1988 ON THIRD READING**

Senator Hinojosa moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1988** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 2222 ON SECOND READING

On motion of Senator Uresti and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2222** at this time on its second reading:

HB 2222, Relating to the membership of the Food and Fibers Research Council.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 2222 ON THIRD READING

Senator Uresti moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2222** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 2300 ON SECOND READING

On motion of Senator Hegar and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2300** at this time on its second reading:

HB 2300, Relating to the carrying of weapons by certain judges and justices and district and county attorneys.

The bill was read second time.

Senator Hegar offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **HB 2300** (House engrossed version) as follows:

(1) In SECTION 6 of the bill, in added Subdivision (7), Subsection (a), Section 46.15, Penal Code (page 6, line 3), strike ", and:" and substitute ".".

(2) In SECTION 6 of the bill, strike added Paragraphs (A) and (B), Subdivision (7), Subsection (a), Section 46.15, Penal Code (page 6, lines 4 through 6).

The amendment to **HB 2300** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Committee Amendment No. 1.

On motion of Senator Hegar and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 2300 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 2300 ON THIRD READING

Senator Hegar moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2300** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 2501 ON SECOND READING

On motion of Senator Watson and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2501** at this time on its second reading:

HB 2501, Relating to certain suits affecting the parent-child relationship referred to an associate judge.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 2501 ON THIRD READING

Senator Watson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2501** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE
HOUSE BILL 2566 ON SECOND READING**

On motion of Senator Carona and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 2566** at this time on its second reading:

CSHB 2566, Relating to a document or instrument filed by an inmate with a court concerning real or personal property.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

**COMMITTEE SUBSTITUTE
HOUSE BILL 2566 ON THIRD READING**

Senator Carona moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2566** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE
HOUSE BILL 2541 ON SECOND READING**

On motion of Senator Uresti and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 2541** at this time on its second reading:

CSHB 2541, Relating to emergency response costs and certain other requirements concerning solid waste facilities, including recycling facilities.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

**COMMITTEE SUBSTITUTE
HOUSE BILL 2541 ON THIRD READING**

Senator Uresti moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2541** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE
HOUSE BILL 3693 ON SECOND READING**

On motion of Senator Fraser and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 3693** at this time on its second reading:

CSHB 3693, Relating to energy demand, energy load, energy efficiency incentives, energy programs, and energy performance measures.

The bill was read second time.

Senator Seliger offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 3693** (Senate committee printing) as follows:

- 1) On page 11, line 65 through page 12, line 11, strike added Subsection (b).
- 2) On page 13, lines 11-12, between "state," and "notwithstanding" insert "and to ensure the continuation of cost-effective energy efficiency measures and delivery systems".

The amendment to **CSHB 3693** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

Senator Eltife offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSHB 3693** (Senate committee printing) by inserting the following appropriately numbered SECTION to read as follows and renumbering subsequent SECTIONS accordingly:

SECTION __. (a) Section 104.301, Utilities Code, is amended to read as follows:

Sec. 104.301. INTERIM ADJUSTMENT FOR ELIGIBLE INFRASTRUCTURE INVESTMENTS [~~CHANGES IN INVESTMENT~~]. (a) The purpose of this subchapter is to provide for the prompt replacement of aging portions of the gas delivery system, and to address energy demand, energy load, energy efficiency incentives, energy programs, and energy performance measures.

(b) In this section, "eligible infrastructure investment" means the difference between the value of the invested capital of a gas utility for the preceding calendar year and the value of the invested capital for the calendar year preceding that calendar year. The value of the invested capital is equal to the original cost of the investment at the time the investment was first dedicated to public use minus the accumulated depreciation related to that investment. The term does not include:

(1) changes in invested capital resulting from allocations of invested capital to the utility from an affiliate or an operating division of the utility not subject to this title other than allocations of net investment in computer equipment, software, communications, and metering; or

(2) classifications of investment that were not included in the utility's invested capital in the utility's most recent ratemaking proceeding.

(c) A gas utility that has filed a rate case under Subchapter C within the preceding two years may file with each [the] regulatory authority an application for a tariff or rate schedule that provides for an interim adjustment in the utility's monthly customer charge or initial block rate to recover the cost of an eligible infrastructure investment [changes in the investment in service for gas utility services]. The adjustment, if granted, shall be allocated among the gas utility's classes of customers in the same manner as the cost of service was allocated among classes of customers in the utility's latest effective rates for the area in which the tariff or rate schedule is implemented.

(d) The gas utility shall file the application for the tariff, [or] rate schedule, or interim [the annual] adjustment [under Subsection (c),] with each [the] regulatory authority for the area in which the tariff or rate schedule will be implemented at least 60 days before the proposed implementation date of the tariff, rate schedule, or interim [annual] adjustment. The gas utility shall provide notice of the application for the tariff, rate schedule, or interim [annual] adjustment to affected customers by bill insert or direct mail not later than the 45th day after the date the utility files the application for the tariff, rate schedule, or interim [annual] adjustment with the regulatory authorities [authority].

(e) During the 60-day period, the regulatory authorities [authority] may act to suspend the implementation of the tariff, rate schedule, or interim [annual] adjustment for up to 45 days. The regulatory authority may approve, approve in part, or deny the application for the tariff, rate schedule, or interim adjustment filed by the gas utility with the regulatory authority. An approval, approval in part, or denial of a tariff, rate schedule, or interim adjustment by a municipality in its capacity as a regulatory authority may be appealed by the gas utility to the railroad commission as provided by Section 102.001(b). In deciding to approve, approve in part, or deny an application, the commission shall consider comments submitted by a regulatory authority. After the issuance of a final order or decision by the [a] regulatory authorities [authority] in a rate case that is filed after the implementation of a tariff or rate schedule under this section, any change in investment that has been included in an interim adjustment in accordance with the tariff or rate schedule under this section shall no longer be subject to subsequent review for reasonableness or prudence. Until the issuance of a final order or decision by a regulatory authority in a rate case that is filed after the implementation of a tariff or rate schedule under this section, all amounts collected under the tariff or rate schedule before the filing of the rate case are subject to refund. The gas utility shall maintain complete records in accordance with commission rules sufficient to identify the specific items and amounts included in the interim adjustment and to support the inclusion of those items and amounts in the interim adjustment.

(f) ~~(b) The amount the gas utility shall adjust the utility's rates upward or downward under the tariff or rate schedule each calendar year is based on the difference between the value of the invested capital for the preceding calendar year and the value of the invested capital for the calendar year preceding that calendar year. The value of the invested capital is equal to the original cost of the investment at the time the investment was first dedicated to public use minus the accumulated depreciation related to that investment.~~

~~[(e)]~~ The interim adjustment shall be recalculated on an annual basis ~~[in accordance with the requirements of Subsection (b)].~~ The gas utility may file a request with a ~~[the]~~ regulatory authority to suspend the operation of the tariff or rate schedule for any year. The request must be in writing and state the reasons why the suspension is justified. The regulatory authority may grant the suspension on a showing by the utility of reasonable justification.

(g) ~~[(d)]~~ A gas utility may only adjust the utility's rates under the tariff or rate schedule for the return on investment, depreciation expense, ad valorem taxes, revenue related taxes, and incremental federal income taxes related to the eligible infrastructure investment ~~[difference in the value of the invested capital]~~ as determined under Subsection (b). The return on investment, depreciation, and incremental federal income tax factors used in the computation must be the same as the factors reflected in the final order issued by or settlement agreement approved by the regulatory authorities ~~[authority]~~ establishing the gas utility's latest effective rates for the area in which the tariff or rate schedule is implemented.

(h) ~~[(e)]~~ A gas utility that implements a tariff or rate schedule under this section shall file with the regulatory authorities ~~[authority]~~ an annual report describing the elements of each eligible infrastructure investment ~~[projects]~~ completed and placed in service during the preceding calendar year and the investments retired or abandoned during the preceding calendar year. The annual report shall also state the cost, need, and customers benefited by each eligible infrastructure ~~[the change in]~~ investment.

(i) ~~[(f)]~~ In addition to the report required under Subsection (h) ~~[(e)]~~, the gas utility shall file with the regulatory authorities ~~[authority]~~ an annual earnings monitoring report in a form established by the railroad commission and demonstrating the utility's earnings during the preceding calendar year.

(j) ~~[(g)]~~ If the gas utility is earning a return on invested capital, as demonstrated by the report filed under Subsection (i) ~~[(f)]~~, of more than 75 basis points above the return established in the latest effective rates approved by a regulatory authority for the area in which the tariff or rate schedule is implemented under this section, the gas utility shall file a statement with that report stating the reasons why the rates are not unreasonable or in violation of law.

(k) ~~[(h)]~~ If a gas utility that implements a tariff or rate schedule under this section does not file a rate case under Subchapter C before the fifth anniversary of the date on which the tariff or rate schedule takes effect, the gas utility shall file a rate case under that subchapter not later than the 180th day after that anniversary in relation to any rates subject to the tariff or rate schedule.

(l) ~~[(i)]~~ This section does not limit the power of ~~[a]~~ regulatory authorities otherwise provided by this code ~~[authority under Section 104.151]~~.

(m) ~~[(j)]~~ A gas utility implementing a tariff or rate schedule under this section shall reimburse the railroad commission the utility's proportionate share of the railroad commission's costs related to the administration of the interim rate adjustment mechanism provided by this section.

(n) A gas utility implementing a tariff or rate schedule under this section shall reimburse a municipality or coalition of municipalities for the municipality's or coalition's reasonable costs of consultants, accountants, auditors, attorneys, and engineers engaged to review the interim rate adjustment. The amount that a utility is

obligated to reimburse a municipality or a coalition of municipalities under this subsection may not exceed an amount equal to two percent of the expected annual increase in revenue that the utility will derive from the interim rate adjustment in the area subject to the original jurisdiction of the municipality or, with respect to a coalition of municipalities, the area subject to the original jurisdiction of the municipalities participating in the coalition.

(o) The exclusion of a portion of the gas utility's invested capital under Subsection (b) does not preclude the utility from requesting that amount in its invested capital in a general rate case brought under Subchapter C.

(b) This section applies only to an application for a tariff or rate schedule in relation to which a regulatory authority has not issued a final order on the effective date of this section. An application in relation to which a regulatory authority has issued a final order before the effective date of this section is governed by the law in effect on the date the final order is issued, and that law is continued in effect for that purpose.

The amendment to **CSHB 3693** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2.

Senator Janek offered the following amendment to the bill:

Floor Amendment No. 3

Amend **CSHB 3693** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill appropriately:

SECTION _____. Section 301.038, Health and Safety Code, is amended to read as follows:

Sec. 301.038. PROVISION [~~COST~~] OF SERVICES; COSTS. (a) A cooperative association may provide services from a system to eligible institutions and may determine the amount to be charged for providing the services.

(b) Notwithstanding Sections 301.032 and 301.037, a cooperative association may provide from a system central heating and cooling services, including steam and heated and chilled water supply, to persons other than eligible institutions and may determine the amount to be charged for providing the services.

The amendment to **CSHB 3693** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 3.

(Senator Eltife in Chair)

Senator Jackson offered the following amendment to the bill:

Floor Amendment No. 4

Amend **CSHB 3693** by adding the following SECTION, appropriately numbered, and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION _____. (a) Title 2, Agriculture Code, is amended by adding Chapter 22 to read as follows:

CHAPTER 22. AGRICULTURAL BIOMASS AND LANDFILL DIVERSION
INCENTIVE PROGRAM

Sec. 22.001. POLICY AND PURPOSE. It is the policy of this state and the purpose of this chapter to reduce air pollution, improve air quality, protect public health, help this state diversify its energy supply, improve energy efficiency, and divert waste from landfills through new price-support incentives to encourage the construction of facilities to generate electric energy with certain types of agricultural residues, forest wood waste, urban wood waste, storm-generated biomass debris, and energy-dedicated crops.

Sec. 22.002. DEFINITIONS. In this chapter:

(1) "Diverter":

(A) means:

(i) a person or facility that qualifies for an exemption under Section 361.111 or 363.006, Health and Safety Code;

(ii) a handler of nonhazardous industrial waste that is registered or permitted under Chapter 361, Health and Safety Code; or

(iii) a facility that separates recyclable materials from a municipal solid waste stream and that is registered or permitted under Chapter 363, Health and Safety Code, as a municipal solid waste management facility; and

(B) does not include a facility that uses biomass to generate electric energy.

(2) "Farmer" means the owner or operator of an agricultural facility that produces qualified agricultural biomass.

(3) "Forest wood waste" includes residual tops and limbs of trees, unused cull trees, thinnings, and wood or debris from noncommercial tree species, slash, or brush.

(4) "Logger" means a harvester of forest wood waste, regardless of whether the harvesting occurs as a part of the harvesting of merchantable timber.

(5) "Qualified agricultural biomass" means:

(A) agricultural residues that are of a type that historically have been disposed of in a landfill, relocated from their point of origin and stored in a manner not intended to enhance or restore the soil, burned in open fields in the area from which they are derived, or burned in fields and orchards that continue to be used for the production of agricultural goods, and includes:

(i) field or seed crop residues, including straw from rice or wheat;

(ii) fruit or nut crop residues, including orchard or vineyard prunings and removals;

(iii) forest wood products or urban wood products; and

(iv) agricultural livestock waste nutrients; and

(B) a crop grown and used specifically for its energy generation value, including a crop consisting of a fast-growing tree species.

(6) "Storm-generated biomass debris" means biomass-based residues that result from a natural weather event, including a hurricane, tornado, or flood, that would otherwise be disposed of in a landfill or burned in the open. The term includes:

(A) trees, brush, and other vegetative matter that have been damaged or felled by severe weather but that would not otherwise qualify as forest wood waste; and

(B) clean solid wood waste that has been damaged by severe weather but that would not otherwise qualify as urban wood waste.

(7) "Urban wood waste" means:

(A) solid wood waste material, other than pressure-treated, chemically treated, or painted wood waste, that is free of rubber, plastic, glass, nails, or other inorganic material; and

(B) landscape or right-of-way trimmings.

Sec. 22.003. GRANT PROGRAM. (a) The department shall develop and administer an agricultural biomass and landfill diversion incentive program to make grants to farmers, loggers, and diverters who provide qualified agricultural biomass, forest wood waste, urban wood waste, or storm-generated biomass debris to facilities that use biomass to generate electric energy in order to provide an incentive for the construction of facilities for that purpose and to:

(1) promote economic development;

(2) encourage the use of renewable sources in the generation of electric energy;

(3) reduce air pollution caused by burning agricultural biomass, forest wood waste, urban wood waste, or storm-generated biomass debris in open fields; and

(4) divert waste from landfills.

(b) Subject to Section 22.005, a farmer, logger, or diverter is entitled to receive a grant in the amount of \$20 for each bone-dry ton of qualified agricultural biomass, forest wood waste, urban wood waste, or storm-generated biomass debris provided by the farmer, logger, or diverter in a form suitable for generating electric energy to a facility that:

(1) is located in this state;

(2) was placed in service after August 31, 2009;

(3) generates electric energy sold to a third party by using qualified agricultural biomass, forest wood waste, urban wood waste, or storm-generated biomass debris;

(4) uses the best available emissions control technology, considering the technical practicability and economic reasonableness of reducing or eliminating the air contaminant emissions resulting from the facility;

(5) maintains its emissions control equipment in good working order; and

(6) is in compliance with its operating permit issued by the Texas Commission on Environmental Quality under Chapter 382, Health and Safety Code.

(c) The commissioner by rule may authorize a grant to be made for providing each bone-dry ton of a type or source of qualified agricultural biomass, forest wood waste, urban wood waste, or storm-generated biomass debris in an amount that is greater than the amount provided by Subsection (b) if the commissioner determines that a grant in a greater amount is necessary to provide an adequate incentive to use that type or source of qualified agricultural biomass, forest wood waste, urban wood waste, or storm-generated biomass debris to generate electric energy.

(d) The Public Utility Commission of Texas and the Texas Commission on Environmental Quality shall assist the department as necessary to enable the department to determine whether a facility meets the requirements of Subsection (b) for purposes of the eligibility of farmers, loggers, and diverters for grants under this chapter.

(e) To receive a grant under this chapter, a farmer, logger, or diverter must deliver qualified agricultural biomass, forest wood waste, urban wood waste, or storm-generated biomass debris to a facility described by Subsection (b). The operator of each facility described by that subsection shall:

(1) verify and document the amount of qualified agricultural biomass, forest wood waste, urban wood waste, or storm-generated biomass debris delivered to the facility for the generation of electric energy; and

(2) make a grant on behalf of the department in the appropriate amount to each farmer, logger, or diverter who delivers qualified agricultural biomass, forest wood waste, urban wood waste, or storm-generated biomass debris to the facility.

(f) The department quarterly shall reimburse each operator of a facility described by Subsection (b) for grants under this chapter made by the operator during the preceding quarter to eligible farmers, loggers, and diverters. To receive reimbursement for one or more grants, an operator of a facility described by that subsection must file an application with the department that verifies the amount of the grants made by the operator during the preceding quarter for which the operator seeks reimbursement.

(g) The department may contract with and provide for the compensation of private consultants, contractors, and other persons to assist the department in administering the agricultural biomass and landfill diversion incentive program.

Sec. 22.004. AGRICULTURAL BIOMASS AND LANDFILL DIVERSION INCENTIVE PROGRAM ACCOUNT. (a) The agricultural biomass and landfill diversion incentive program account is an account in the general revenue fund. The account is composed of:

(1) legislative appropriations;

(2) gifts, grants, donations, and matching funds received under Subsection

(b); and

(3) other money required by law to be deposited in the account.

(b) The department may solicit and accept gifts in kind, donations, and grants of money from the federal government, local governments, private corporations, or other persons to be used for the purposes of this chapter.

(c) Money in the account may be appropriated only to the department for the purpose of implementing and maintaining the agricultural biomass and landfill diversion incentive program.

(d) Income from money in the account shall be credited to the account.

(e) The account is exempt from the application of Section 403.095, Government Code.

Sec. 22.005. LIMITATION ON GRANT AMOUNT. (a) The total amount of grants awarded by operators of facilities under Section 22.003 and by the department under Section 22.006 during each state fiscal year may not exceed \$30 million.

(b) During each state fiscal year, the department may not pay to an operator of a facility as reimbursements under Section 22.003 or grants under Section 22.006 an amount that exceeds \$6 million.

Sec. 22.006. ELIGIBILITY OF OPERATORS OF ELECTRIC ENERGY GENERATION FACILITIES FOR GRANTS. (a) Except as provided by Subsection (b), an operator of a facility that uses biomass to generate electric energy is not eligible to receive a grant under this chapter or under any other state law for the generation of electric energy with qualified agricultural biomass, forest wood waste, urban wood waste, or storm-generated biomass debris for which a farmer, logger, or diverter has received a grant under this chapter.

(b) An operator of a facility that uses biomass to generate electric energy may receive a grant from the department under this chapter for generating electric energy with qualified agricultural biomass, forest wood waste, urban wood waste, or storm-generated biomass debris that arrives at the facility in a form unsuitable for generating electric energy and that the facility processes into a form suitable for generating electric energy.

(c) To receive a grant from the department under Subsection (b), an operator of a facility must file an application with the department that verifies the amount of qualified agricultural biomass, forest wood waste, urban wood waste, or storm-generated biomass debris that the facility processed into a form suitable for generating electric energy. The department shall make grants to eligible operators of facilities quarterly, subject to appropriations. The provisions of this chapter governing grants to farmers, loggers, and diverters, including the provisions governing the amount of a grant, apply to a grant from the department under Subsection (b) to the extent they can be made applicable.

Sec. 22.007. RULES. The commissioner, in consultation with the Public Utility Commission of Texas and the Texas Commission on Environmental Quality, shall adopt rules to implement this chapter.

Sec. 22.008. AVAILABILITY OF FUNDS. Notwithstanding any other provision of this chapter, the department is not required to administer this chapter or adopt rules under this chapter, and the operator of a facility described by Section 22.003(b) is not required to make a grant on behalf of the department, until funds are appropriated for those purposes.

Sec. 22.009. EXPIRATION OF PROGRAM AND CHAPTER. The agricultural biomass and landfill diversion incentive program terminates on August 31, 2019. On September 1, 2019:

(1) any unobligated funds remaining in the agricultural biomass and landfill diversion incentive program account shall be transferred to the undedicated portion of the general revenue fund; and

(2) this chapter expires.

SECTION 2. This Act takes effect September 1, 2007.

The amendment to **CSHB 3693** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 4.

Senator Lucio offered the following amendment to the bill:

Floor Amendment No. 5

Amend **CSHB 3693** (Senate committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION __. (a) Subchapter Z, Chapter 39, Utilities Code, is amended by adding Section 39.916 to read as follows:

Sec. 39.916. INTERCONNECTION OF DISTRIBUTED RENEWABLE GENERATION. (a) In this section:

(1) "Distributed renewable generation" means electric generation with a capacity of not more than 2,000 kilowatts provided by a renewable energy technology, as defined by Section 39.904, that is installed on a retail electric customer's side of the meter.

(2) "Distributed renewable generation owner" means the owner of distributed renewable generation.

(3) "Interconnection" means the right of a distributed renewable generation owner to physically connect distributed renewable generation to an electricity distribution system, and the technical requirements, rules, or processes for the connection.

(b) A transmission and distribution utility or electric utility shall allow interconnection if:

(1) the distributed renewable generation to be interconnected has a five-year warranty against breakdown or undue degradation; and

(2) the rated capacity of the distributed renewable generation does not exceed the transmission and distribution utility's or the electric utility's service entrance capacity.

(c) A customer may request interconnection by filing an application for interconnection with the transmission and distribution utility or electric utility. Procedures of a transmission and distribution utility or electric utility for the submission and processing of a customer's application for interconnection shall be consistent with rules adopted by the commission regarding interconnection.

(d) The commission by rule shall establish safety, technical, and performance standards for distributed renewable generation that may be interconnected. In adopting the rules, the commission shall consider standards published by the Underwriters Laboratories, the National Electric Code, the National Electric Safety Code, and the Institute of Electrical and Electronics Engineers.

(e) A transmission and distribution utility, electric utility, or retail electric provider may not require a distributed renewable generation owner whose distributed renewable generation meets the standards established by rule under Subsection (d) to purchase an amount, type, or classification of liability insurance the distributed renewable generation owner would not have in the absence of the distributed renewable generation.

(f) A transmission and distribution utility or electric utility shall make available to a distributed renewable generation owner for purposes of this section metering required for services provided under this section, including separate meters that measure the load and generator output or a single meter capable of measuring in-flow

and out-flow at the point of common coupling meter point. The distributed renewable generation owner must pay the differential cost of the metering unless the meters are provided at no additional cost. Except as provided by this section, Section 39.107 applies to metering under this section.

(g) A renewable energy credit that is earned by a distributed renewable generation owner through the interconnection of a renewable electric system is the sole property of the distributed renewable generation owner unless the distributed renewable generation owner engages in a transaction to sell or trade the credit under Section 39.904. The commission by rule shall address the ownership of renewable energy credits associated with power sold to an electric utility.

(h) An electric utility or a retail electric provider may contract with a distributed renewable generation owner so that:

(1) surplus electricity produced by distributed renewable generation is made available for sale to the transmission grid and distribution system; and

(2) the net value of that surplus electricity is credited to the distributed renewable generation owner.

(i) For a distributed renewable generation owner in an area in which customer choice has been introduced, the distributed renewable generation owner must sell the owner's surplus electricity produced to the retail electric provider that serves the distributed renewable generation owner's load at a value agreed to between the distributed renewable generation owner and the provider that serves the owner's load. The agreed value may be based on the clearing price of energy at the time of day that the electricity is made available to the grid, may be a credit applied to an account during a billing period that may be carried over to subsequent billing periods until the credit has been redeemed, or may be as otherwise provided by a mutually agreed commercial arrangement. The independent organization identified in Section 39.151 shall develop procedures so that, by January 1, 2009, the amount of electricity purchased from a distributed renewable generation owner under this section is accounted for in settling the total load served by the provider that serves that owner's load. A distributed renewable generation owner requesting net metering services for purposes of this section must have metering devices capable of providing measurements consistent with the independent organization's settlement requirements.

(b) This section takes effect January 1, 2009.

The amendment to **CSHB 3693** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 5.

Senator Nichols offered the following amendment to the bill:

Floor Amendment No. 6

Amend **CSHB 3693** on page 2 line 68 after the word "navigation" by adding: "if available, or at another publicly accessible location"

The amendment to **CSHB 3693** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 6.

On motion of Senator Fraser and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSHB 3693 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

**COMMITTEE SUBSTITUTE
HOUSE BILL 3693 ON THIRD READING**

Senator Fraser moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 3693** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

RECESS

On motion of Senator Whitmire, the Senate at 12:59 p.m. recessed until 1:45 p.m. today.

AFTER RECESS

The Senate met at 2:07 p.m. and was called to order by Senator Eltife.

HOUSE BILL 2524 ON SECOND READING

Senator Van de Putte moved to suspend the regular order of business to take up for consideration **HB 2524** at this time on its second reading:

HB 2524, Relating to the establishment of a pilot project to construct a public safety triage and detoxification unit and the provision of mental health and substance abuse treatment.

The motion prevailed.

Senator Patrick asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time and was passed to third reading by a viva voce vote.

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

Nays: Patrick.

HOUSE BILL 2524 ON THIRD READING

Senator Van de Putte moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2524** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Patrick.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 1. (Same as previous roll call)

HOUSE BILL 2523 ON SECOND READING

On motion of Senator Nelson and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2523** at this time on its second reading:

HB 2523, Relating to the authority of the Denton County Municipal Utility District No. 6 to divide into two districts.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 2523 ON THIRD READING

Senator Nelson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2523** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

COMMITTEE SUBSTITUTE HOUSE BILL 2605 ON SECOND READING

Senator Whitmire moved to suspend the regular order of business to take up for consideration **CSHB 2605** at this time on its second reading:

CSHB 2605, Relating to the existence of a common nuisance on premises for which certain alcoholic beverage permits or licenses are held or sought.

The motion prevailed.

Senators Harris, Patrick, Shapiro, and Williams asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time.

Senator Whitmire offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 2605** in SECTION 1 of the bill, in added Section 81.003 "[-, or the state senator or state representative]".

The amendment to **CSHB 2605** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

On motion of Senator Whitmire and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSHB 2605 as amended was passed to third reading by a viva voce vote.

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

Nays: Harris, Patrick, Shapiro, Williams.

**COMMITTEE SUBSTITUTE
HOUSE BILL 2605 ON THIRD READING**

Senator Whitmire moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2605** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 4.

Yeas: Averitt, Brimer, Carona, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Hegar, Hinojosa, Jackson, Janek, Lucio, Nelson, Nichols, Ogden, Seliger, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Zaffirini.

Nays: Harris, Patrick, Shapiro, Williams.

The bill was read third time and was passed by the following vote: Yeas 27, Nays 4. (Same as previous roll call)

**COMMITTEE SUBSTITUTE
HOUSE BILL 2460 ON SECOND READING**

On motion of Senator Deuell and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 2460** at this time on its second reading:

CSHB 2460, Relating to the continuation and functions of the Texas Commission on the Arts.

The bill was read second time.

Senator Deuell offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 2460** (Senate committee printing) as follows:

(1) In SECTION 1 of the bill, in amended Section 444.002(a), Government Code (page 1, line 18), strike "2009" and substitute "2013".

(2) In Subsection (b), SECTION 10 of the bill (page 4, line 59), strike "81st" and substitute "83rd".

(3) In Subsection (c), SECTION 10 of the bill (page 4, line 61), strike "2009" and substitute "2013".

The amendment to **CSHB 2460** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

On motion of Senator Deuell and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSHB 2460 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

COMMITTEE SUBSTITUTE
HOUSE BILL 2460 ON THIRD READING

Senator Deuell moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2460** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 860 ON SECOND READING

On motion of Senator Williams and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 860** at this time on its second reading:

HB 860, Relating to management, investment, and expenditure of institutional funds and adoption of the Uniform Prudent Management of Institutional Funds Act.

The bill was read second time.

Senator Williams offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **HB 860** as follows:

(1) On page 7, line 19 strike the word "The" and insert in lieu thereof "Except as provided in subsection (f),"

(2) Add a new subsection (f) on page 8, after line 25 to read as follows:

(f) This subsection applies only to a university system, as defined by Section 61.003(10), education code. The appropriation for expenditure in any year of an amount greater than nine percent of the fair market value of an endowment fund with an aggregate value of \$450 million or more, calculated on the basis of market values determined at least quarterly and averaged over a period of not less than three years immediately preceding the year in which the appropriation for expenditure was made, creates a rebuttable presumption of imprudence. For an endowment fund in existence for fewer than three years, the fair market value of the endowment fund must be calculated for the period the endowment fund has been in existence. This subsection does not:

(1) apply to an appropriation for expenditure permitted under law other than this chapter or by the gift instrument; or

(2) create a presumption of prudence for an appropriation for expenditure of an amount less than or equal to nine percent of the fair market value of the endowment fund.

(3) Renumber subsequent subsections accordingly.

The amendment to **HB 860** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Committee Amendment No. 1.

Senator Duncan offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 860** by adding the following appropriately numbered sections:

SECTION ____ . Section 404.024, Government Code, is amended by amending Subsections (b) and (l) and adding Subsections (m) and (n) to read as follows:

(b) State funds not deposited in state depositories shall be invested by the comptroller in:

- (1) direct security repurchase agreements;
- (2) reverse security repurchase agreements;
- (3) direct obligations of or obligations the principal and interest of which are guaranteed by the United States;
- (4) direct obligations of or obligations guaranteed by agencies or instrumentalities of the United States government;

(5) bankers' acceptances that:

(A) are eligible for purchase by the Federal Reserve System;

(B) do not exceed 270 days to maturity; and

(C) are issued by a bank whose other comparable short-term obligations are rated in [that has received] the highest short-term [credit] rating category, within which there may be subcategories or gradations indicating relative standing, including such subcategories or gradations as "rating category" or "rated," by a nationally recognized statistical rating organization, as defined by Rule 2a-7 (17 C.F.R. Section 270.2a-7), promulgated under the Investment Company Act of 1940 by the Securities and Exchange Commission [investment rating firm];

(6) commercial paper that:

(A) does not exceed 270 days to maturity; and

(B) except as provided by Subsection (i), is issued by an entity whose other comparable short-term obligations are rated in [has received] the highest short-term [credit] rating category by a nationally recognized statistical rating organization [investment rating firm];

(7) contracts written by the treasury in which the treasury grants the purchaser the right to purchase securities in the treasury's marketable securities portfolio at a specified price over a specified period and for which the treasury is paid a fee and specifically prohibits naked-option or uncovered option trading;

(8) direct obligations of or obligations guaranteed by the Inter-American Development Bank, the International Bank for Reconstruction and Development (the World Bank), the African Development Bank, the Asian Development Bank, and the International Finance Corporation that have received the highest long-term [credit] rating categories for debt obligations by a nationally recognized statistical rating organization [investment rating firm];

(9) bonds issued, assumed, or guaranteed by the State of Israel;

(10) obligations of a state or an agency, county, city, or other political subdivision of a state;

(11) mutual funds secured by obligations that are described by Subdivisions (1) through (6) or by obligations consistent with Rule 2a-7 (17 C.F.R. Section 270.2a-7), promulgated by the Securities and Exchange Commission, including pooled funds:

- (A) established by the Texas Treasury Safekeeping Trust Company;
- (B) operated like a mutual fund; and
- (C) with portfolios consisting only of dollar-denominated securities;

[~~and~~]

(12) foreign currency for the sole purpose of facilitating investment by state agencies that have the authority to invest in foreign securities;

(13) asset-backed securities, as defined by the Securities and Exchange Commission in Rule 2a-7 (17 C.F.R. Section 270.2a-7), that are rated at least A or its equivalent by a nationally recognized statistical rating organization and that have a weighted-average maturity of five years or less; and

(14) corporate debt obligations that are rated at least A or its equivalent by a nationally recognized statistical rating organization and mature in five years or less from the date on which the obligations were "acquired," as defined by the Securities and Exchange Commission in Rule 2a-7 (17 C.F.R. Section 270.2a-7).

(l) The comptroller may lend securities under procedures established by the comptroller. The procedures must be consistent with industry practice and must include a requirement to fully secure the loan with cash, obligations described by Subsections (b)(1)-(6), or a combination of cash and the described obligations. Notwithstanding any law to the contrary, cash may be reinvested in the items permitted under Subsection (b) or mutual funds, as defined by the Securities and Exchange Commission in Rule 2a-7 (17 C.F.R. Section 270.2a-7) [~~In this subsection, "obligation" means an item described by Subsections (b)(1)-(6).~~]

(m) In entering into a direct security repurchase agreement or a reverse security repurchase agreement, the comptroller may agree to accept cash on an overnight basis in lieu of the securities, obligations, or participation certificates identified in Section 404.001(3). Cash held by the state under this subsection is not a deposit of state or public funds for purposes of any statute, including this subchapter or Subchapter D, that requires a deposit of state or public funds to be collateralized by eligible securities.

(n) Notwithstanding any other law to the contrary, any government investment pool created to function as a money market mutual fund and managed by the comptroller or the Texas Treasury Safekeeping Trust Company may invest the funds it receives in investments that are "eligible securities," as defined by the Securities and Exchange Commission in Rule 2a-7 (17 C.F.R. Section 270.2a-7), if it maintains a dollar-weighted average portfolio maturity of 90 days or less, with the maturity of each portfolio security calculated in accordance with Rule 2a-7 (17 C.F.R. Section 270.2a-7), and meets the diversification requirements of Rule 2a-7.

The amendment to **HB 860** was read.

Senator Williams moved to postpone further consideration of the bill to a time certain of 3:00 p.m. today.

The motion prevailed.

Question — Shall Floor Amendment No. 1 to **HB 860** be adopted?

HOUSE BILL 610 ON SECOND READING

On motion of Senator Hegar and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 610** at this time on its second reading:

HB 610, Relating to a plan to provide services to an area annexed by a municipality.

The bill was read second time.

Senator Hegar offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **HB 610** (House engrossment) in Section 1 of the bill, in amended Section 43.056(b), Local Government Code (page 1, lines 12 through 19), by striking the language beginning with "and include a list" and ending with "~~after the effective date of the annexation.~~" and substituting "unless certain services cannot reasonably be provided within that period and the municipality proposes a schedule for providing those services, and must include a list of all services required by this section to be provided under the plan. If the municipality proposes a schedule to extend the period for providing certain services, the schedule must provide for the provision of full municipal services no later than 4-1/2 years after the effective date of the annexation."

The amendment to **HB 610** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Committee Amendment No. 1.

Senator Hegar offered the following committee amendment to the bill:

Committee Amendment No. 2

Amend **HB 610** (House engrossment) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION ____ . Section 214.199, Local Government Code, is amended to read as follows:

Sec. 214.199. EXCEPTION OF MUNICIPALITY FROM ALARM SYSTEM RESPONSE. (a) The governing body of a municipality may not adopt an ordinance or policy providing that law enforcement personnel of the municipality will not respond to any alarm signal indicated by an alarm system in the municipality unless, before adopting the ordinance or policy, the governing body of the municipality:

(1) makes reasonable efforts to notify permit holders of its intention to adopt the ordinance or policy; and

(2) conducts a public hearing at which persons interested in the response of the municipality to alarm systems are given the opportunity to be heard.

(b) A municipality that adopts an ordinance or policy under this section may not impose or collect any fine, fee, or penalty otherwise authorized by this subchapter.

The amendment to **HB 610** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Committee Amendment No. 2.

Senator Wentworth offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 610** (Senate committee printing) by adding the following appropriately numbered sections to the bill and renumbering subsequent sections of the bill accordingly:

SECTION ____ . Subchapter B, Chapter 43, Local Government Code, is amended by adding Section 43.035 to read as follows:

Sec. 43.035. ANNEXATION OF CERTAIN CONTIGUOUS AREAS BY GENERAL LAW MUNICIPALITY. (a) Notwithstanding any other provision of this chapter, a general law municipality may annex an unincorporated area located within three contiguous miles of the municipality's corporate limits or extraterritorial jurisdiction if the municipality receives a petition for annexation from at least 75 percent of the qualified voters of the area to be annexed. If any part of a subdivision is within the three mile limit, all of the subdivision may be annexed under this section.

(b) In order to file a petition under this section, part of the area to be annexed must be:

(1) within the boundaries of a school district with a high school located within the general law municipality's corporate limits or extraterritorial jurisdiction; and

(2) within three linear miles of the general law municipality's main police station.

(c) If the general law municipality grants the petition, the municipality shall have the sole authority and power to annex the affected area.

(d) On the effective date of the ordinance annexing the territory, the area becomes a part of the general law municipality and the inhabitants of the area are entitled to the rights and privileges of other residents of the municipality and are bound by the acts and ordinances adopted by the municipality.

(e) The fact that the affected area is within the extraterritorial jurisdiction or annexation plan of a home rule municipality does not affect the power of the general law municipality to annex the area under this section if that home rule municipality does not elect the home rule municipality's governing body from single member districts. If a general municipality annexes an area under this section and the area is within a home rule municipality's extraterritorial jurisdiction or annexation plan, the home rule municipality's extraterritorial jurisdiction and annexation plan area are decreased by that amount. An area annexed under this section is exempt from the requirements of this chapter from being in a general law municipality's annexation plan.

(f) In a petition filed under this section, the petitioners may propose a service plan, and the general law municipality may adopt the proposed service plan in the annexation ordinance without undergoing the procedures required by this chapter for the adoption of a service plan.

SECTION ____ . Section 43.052, Local Government Code, is amended by adding Subsection (k) to read as follows:

(k) Notwithstanding the restrictions imposed by Subsections (e) and (g), under an agreement described by Section 43.0563 a municipality may annex an area for full or limited purposes at any time on petition of the owner of the area for the annexation if the area:

(1) is in the municipality's annexation plan; or

(2) was previously in the municipality's annexation plan but removed under

Subsection (e).

SECTION _____. Section 43.0563, Local Government Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) The governing body of a municipality with a population of less than 1.6 million may negotiate and enter into a written agreement [~~with representatives designated under Section 43.0562(b)]~~ for the provision of services and the funding of the services in an ~~the~~ area with:

(1) representatives designated under Section 43.0562(b), if the area is included in the municipality's annexation plan; or

(2) an owner of an area within the extraterritorial jurisdiction of the municipality if the area is not included in the municipality's annexation plan.

(a-1) An ~~The~~ agreement under this section may also include an agreement related to permissible land uses and compliance with municipal ordinances.

SECTION _____. Section 43.0564(a), Local Government Code, is amended to read as follows:

(a) If the municipality and the representatives of the area proposed for annexation cannot reach an agreement for the provision of services under Section 43.0562 or if the municipality and the property owner representatives described by Section 43.0563(a)(1) cannot reach an agreement for the provision of services in lieu of annexation under Section 43.0563, either party by majority decision of the party's representatives may request the appointment of an arbitrator to resolve the service plan issues in dispute. The request must be made in writing to the other party before the 60th day after the date the service plan is completed under Section 43.056. The municipality may not annex the area under another section of this chapter during the pendency of the arbitration proceeding or an appeal from the arbitrator's decision.

The amendment to **HB 610** was read.

Senator Wentworth withdrew Floor Amendment No. 1.

Senator Wentworth offered the following amendment to the bill:

Floor Amendment No. 2

Amend **HB 610** (Senate committee printing) by adding the following appropriately numbered sections to the bill and renumbering subsequent sections of the bill accordingly:

SECTION _____. Section 43.052, Local Government Code, is amended by adding Subsection (k) to read as follows:

(k) Notwithstanding the restrictions imposed by Subsections (e) and (g), under an agreement described by Section 43.0563 a municipality may annex an area for full or limited purposes at any time on petition of the owner of the area for the annexation if the area:

(1) is in the municipality's annexation plan; or

(2) was previously in the municipality's annexation plan but removed under

Subsection (e).

SECTION _____. Section 43.0563, Local Government Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) The governing body of a municipality with a population of less than 1.6 million may negotiate and enter into a written agreement [~~with representatives designated under Section 43.0562(b)~~] for the provision of services and the funding of the services in an ~~[the]~~ area with:

(1) representatives designated under Section 43.0562(b), if the area is included in the municipality's annexation plan; or

(2) an owner of an area within the extraterritorial jurisdiction of the municipality if the area is not included in the municipality's annexation plan.

(a-1) An ~~[The]~~ agreement under this section may also include an agreement related to permissible land uses and compliance with municipal ordinances.

SECTION _____. Section 43.0564(a), Local Government Code, is amended to read as follows:

(a) If the municipality and the representatives of the area proposed for annexation cannot reach an agreement for the provision of services under Section 43.0562 or if the municipality and the property owner representatives described by Section 43.0563(a)(1) cannot reach an agreement for the provision of services in lieu of annexation under Section 43.0563, either party by majority decision of the party's representatives may request the appointment of an arbitrator to resolve the service plan issues in dispute. The request must be made in writing to the other party before the 60th day after the date the service plan is completed under Section 43.056. The municipality may not annex the area under another section of this chapter during the pendency of the arbitration proceeding or an appeal from the arbitrator's decision.

The amendment to **HB 610** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2.

On motion of Senator Hegar and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 610 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 610 ON THIRD READING

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

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

(Senator Watson in Chair)

HOUSE BILL 1287 ON SECOND READING

Senator Estes moved to suspend the regular order of business to take up for consideration **HB 1287** at this time on its second reading:

HB 1287, Relating to public school elective courses providing academic study of the Bible.

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

Yeas: Averitt, Brimer, Carona, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Harris, Hegar, Jackson, Janek, Lucio, Nelson, Nichols, Patrick, Seliger, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Gallegos, Hinojosa.

Absent: Ogden.

The bill was read second time.

Senator Estes offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 1287** by striking all below the enacting clause and substituting the following:

SECTION 1. Subchapter A, Chapter 28, Education Code, is amended by adding Section 28.011 to read as follows:

Sec. 28.011. ELECTIVE COURSES ON THE BIBLE'S HEBREW SCRIPTURES (OLD TESTAMENT) AND NEW TESTAMENT AND THEIR IMPACT ON THE HISTORY AND LITERATURE OF WESTERN CIVILIZATION.

(a) A school district shall offer to students in grade nine or above:

(1) an elective course on the Hebrew Scriptures (Old Testament) and its impact and an elective course on the New Testament and its impact; or

(2) an elective course that combines the courses described by Subdivision

(1).

(b) The purpose of a course under this section is to:

(1) teach students knowledge of biblical content, characters, poetry, and narratives that are prerequisites to understanding contemporary society and culture, including literature, art, music, mores, oratory, and public policy; and

(2) familiarize students with, as applicable:

(A) the contents of the Hebrew Scriptures or New Testament;

(B) the history of the Hebrew Scriptures or New Testament;

(C) the literary style and structure of the Hebrew Scriptures or New Testament; and

(D) the influence of the Hebrew Scriptures or New Testament on law, history, government, literature, art, music, customs, morals, values, and culture.

(c) A student may not be required to use a specific translation as the sole text of the Hebrew Scriptures or New Testament and may use as the basic textbook a different translation of the Hebrew Scriptures or New Testament from that chosen by the board of trustees of the student's school district or the student's teacher.

(d) A course offered under this section shall follow applicable law and all federal and state guidelines in maintaining religious neutrality and accommodating the diverse religious views, traditions, and perspectives of students in their school district. A course under this section shall not endorse, favor, or promote, or disfavor or show hostility toward, any particular religion or nonreligious faith or religious perspective. Nothing in this statute is intended to violate any provision of the United States Constitution or federal law, the Texas Constitution or any state law, or any rules or guidelines provided by the United States Department of Education or the Texas Education Agency.

(e) A teacher of a course offered under this section must hold a minimum of a High School Composite Certification in language arts, social studies, or history with, where practical, a minor in religion or biblical studies. A teacher selected to teach a course under this section shall successfully complete appropriate staff development training. A course under this section may only be taught by a teacher who has successfully completed training in connection with the Bible course chosen by the school district. Training in connection with the Bible course chosen shall be submitted to the Texas Attorney General for approval to ensure that applicable constitutional standards are met.

(f) For the purpose of a student earning credit for high school graduation, a school district shall grant one-half academic elective credit for satisfactory completion of a course on the Hebrew Scriptures, one-half academic elective credit for satisfactory completion of a course on the New Testament, and one-half academic elective credit for satisfactory completion of a combined course on both the Hebrew Scriptures and the New Testament. This subsection applies only to a course that is taught in strict compliance with this section.

(g) If, for a particular semester, fewer than 20 students at a school district campus register to enroll in a course required by this section, the district is not required to offer the course at that campus for that semester.

(h) This section does not prohibit the board of trustees of a school district from offering an elective course based on the books of a religion other than Christianity. In determining whether to offer such a course, the board may consider various factors, including student and parent demand for such a course and the impact such books have had on history and culture.

(i) This section does not prohibit a school district from offering a course, other than the course authorized by this section, in the academic study of the Hebrew Scriptures, the New Testament, or both for local credit or for state elective credit towards high school graduation.

SECTION 2. Section 28.002(a), Education Code, is amended to read as follows:

(a) Each school district that offers kindergarten through grade 12 shall offer, as a required curriculum:

(1) a foundation curriculum that includes:

(A) English language arts;

- (B) mathematics;
- (C) science; and
- (D) social studies, consisting of Texas, United States, and world history, government, and geography; and
- (2) an enrichment curriculum that includes:
 - (A) to the extent possible, languages other than English;
 - (B) health, with emphasis on the importance of proper nutrition and exercise;
 - (C) physical education;
 - (D) fine arts;
 - (E) economics, with emphasis on the free enterprise system and its benefits;
 - (F) career and technology education; ~~and~~
 - (G) technology applications; and
 - (H) religious literature, including the Hebrew Scriptures (Old Testament) and New Testament, and its impact on history and literature.

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, 2007.

The amendment to **HB 1287** was read.

Senator Estes withdrew Floor Amendment No. 1.

HB 1287 was passed to third reading by a viva voce vote.

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

Nays: Gallegos, Hinojosa.

Absent: Ogden.

HOUSE BILL 1287 ON THIRD READING

Senator Estes moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1287** be placed on its third reading and final passage.

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

Yeas: Averitt, Brimer, Carona, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Harris, Hegar, Jackson, Janek, Lucio, Nelson, Nichols, Patrick, Seliger, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Gallegos, Hinojosa.

Absent: Ogden.

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

HOUSE BILL 860 ON SECOND READING

The Presiding Officer laid before the Senate **HB 860** by Senator Williams on its second reading. The bill had been read second time, amended, an amendment offered, and further consideration postponed to a time certain of 3:00 p.m. today:

HB 860, Relating to management, investment, and expenditure of institutional funds and adoption of the Uniform Prudent Management of Institutional Funds Act.

Question — Shall Floor Amendment No. 1 to **HB 860** be adopted?

On motion of Senator Duncan, Floor Amendment No. 1 to **HB 860** was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

On motion of Senator Williams and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 860 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 860 ON THIRD READING

Senator Williams moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 860** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 556 ON SECOND READING

On motion of Senator Fraser and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 556** at this time on its second reading:

HB 556, Relating to voting station requirements for elections held by the Hickory Underground Water Conservation District No. 1.

The bill was read second time.

Senator Duncan offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 556** by adding the following appropriately numbered SECTIONS to the bill and by renumbering the existing SECTIONS as appropriate:

SECTION _____. The heading to Section 31.009, Election Code, is amended to read as follows:

Sec. 31.009. DISTRIBUTION OF CERTAIN ~~FEDERAL~~ FUNDS.

SECTION _____. Section 31.009(a), Election Code, is amended to read as follows:

(a) If federal funds are made available to assist the state in the administration of elections, including assistance for the phasing out or prohibition of the use of punch-card ballot voting systems in this state, or state funds are made available to reimburse political subdivisions for expenses incurred in conducting a special election that is held statewide, the secretary of state shall administer and distribute the funds as appropriate to most effectively facilitate the purposes for which the funds are made available.

SECTION _____. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect on the 91st day after the last day of the legislative session.

The amendment to **HB 556** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

Senator Duncan offered the following amendment to the bill:

Floor Amendment No. 2

Amend **HB 556** by adding the following appropriately numbered SECTIONS to the bill and by renumbering the existing SECTIONS as appropriate:

SECTION _____. It is the intent of the legislature that in creating the formula for the finding of an undue burden in Subsection (c), Section 61.013, Election Code, as added by this Act, the legislature took into account the size of the political subdivision holding the election, which affects the amount of available funds and election workforce, and the costs of voting machine systems compared to previous accommodations for voters with disabilities.

SECTION _____. Subsection (a), Section 61.012, Election Code, is amended to read as follows:

(a) Except as provided by Section 61.013 [~~Not later than January 1, 2006~~], each polling place must provide at least one voting station that:

(1) complies with:

(A) Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Section 794) and its subsequent amendments;

(B) [~~and~~] Title II of the federal Americans with Disabilities Act (42 U.S.C. Section 12131 et seq.) and its subsequent amendments; and

(C) the requirements for accessibility under 42 U.S.C. Section 15481(a)(3) and its subsequent amendments; and

(2) provides a practical and effective means for voters with physical disabilities to cast a secret ballot.

SECTION _____. Subchapter A, Chapter 61, Election Code, is amended by adding Section 61.013 to read as follows:

Sec. 61.013. ACCESS BY PERSONS WITH DISABILITIES: ELECTIONS OF CERTAIN POLITICAL SUBDIVISIONS. (a) For an election other than an election of a political subdivision that is held jointly with another election in which a federal office appears on the ballot, the political subdivision is not required to meet the requirements of Section 61.012(a)(1)(C) if the political subdivision:

(1) is a county with a population of less than 2,000;

(2) is a county with a population of 2,000 or more but less than 5,000, and the county provides at least one voting station that meets the requirements for accessibility under 42 U.S.C. Section 15481(a)(3) on election day;

(3) is a county with a population of 5,000 or more but less than 10,000, and the county provides at least one voting station that meets the requirements for accessibility under 42 U.S.C. Section 15481(a)(3) on election day and during the period for early voting by personal appearance;

(4) is a county with a population of 10,000 or more but less than 20,000, and the county:

(A) makes a showing in the manner provided by Subsection (c) that compliance with Section 61.012(a)(1)(C) constitutes an undue burden on the county;

(B) provides at least one voting station that meets the requirements for accessibility under 42 U.S.C. Section 15481(a)(3) on election day and during the period for early voting by personal appearance; and

(C) provides a mobile voting station that meets the requirements for accessibility under 42 U.S.C. Section 15481(a)(3) that during the period for early voting by personal appearance is deployed at least once at each polling place used for early voting by personal appearance; or

(5) is located in a county described by Subdivisions (1)-(4) and meets the same requirements as the county in which the political subdivision is located.

(b) A voter with a disability that desires a reasonable accommodation to vote in an election of a county described by Subsection (a)(1) or a political subdivision located in that county shall make a request for the accommodation with the early voting clerk of the county or political subdivision not later than the 21st day before the date of the election. On receipt of the request, the early voting clerk shall make a reasonable accommodation to allow the voter to cast a vote.

(c) A county or political subdivision may make a showing of undue burden under Subsection (a)(4)(A) by filing an application with the secretary of state not later than the 90th day before the date of the election that states the reasons that compliance would constitute an undue burden. A showing of an undue burden may be satisfied by proof that the election costs associated with compliance with Section 61.012(a)(1)(C) constitute a significant expense for the county or political subdivision and reflect an increase of at least 25 percent in the costs of holding an election as compared to the costs of the last general election held by the county or political subdivision before January 1, 2006. Not later than the 20th day after the date of receiving an application under this section, the secretary of state shall determine whether compliance with Section 61.012(a)(1)(C) is an undue burden for the county or political subdivision.

(d) A county or political subdivision that intends to use this section to provide fewer voting stations that meet the requirements for accessibility under 42 U.S.C. Section 15481(a)(3) than required by Section 61.012(a)(1)(C) must:

(1) provide notice to the secretary of state of that intent not later than the 90th day before the date of the election; and

(2) for a county described by Subsection (a)(2), (3), or (4), or a political subdivision located in such a county, publish notice of the location of each voting station that meets the requirements for accessibility under 42 U.S.C. Section 15481(a)(3) in a newspaper of general circulation in the county or political subdivision not later than the 15th day before the date of the start of the period of early voting by personal appearance.

(e) For purposes of this section, a political subdivision located in more than one county may choose:

(1) to be considered located in the county that contains the greatest number of registered voters of the political subdivision; or

(2) for each portion of the political subdivision located in a different county, to be considered a separate political subdivision.

(f) The secretary of state shall prescribe procedures and adopt rules as necessary to implement this section.

SECTION ____ . Subsection (b), Section 61.012, Election Code, is repealed.

The amendment to **HB 556** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2.

On motion of Senator Fraser and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 556 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 556 ON THIRD READING

Senator Fraser moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 556** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 967 ON SECOND READING

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 967** at this time on its second reading:

HB 967, Relating to the reappraisal for ad valorem tax purposes of agricultural or open-space land on which the Texas Animal Health Commission has established a temporary quarantine for ticks.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 967 ON THIRD READING

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 967** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 1524 ON SECOND READING

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1524** at this time on its second reading:

HB 1524, Relating to sports and community venue projects.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 1524 ON THIRD READING

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1524** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 2190 ON SECOND READING

On motion of Senator Duncan and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2190** at this time on its second reading:

HB 2190, Relating to eligibility to serve as the executive director of the Teacher Retirement System of Texas.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 2190 ON THIRD READING

Senator Duncan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2190** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 1459 ON SECOND READING

On motion of Senator Janek and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1459** at this time on its second reading:

HB 1459, Relating to the application of the sales and use tax to certain telecommunications services provided through the use of a pay phone.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 1459 ON THIRD READING

Senator Janek moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1459** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 779 ON SECOND READING

On motion of Senator Gallegos and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 779** at this time on its second reading:

HB 779, Relating to the dismissal of certain enforcement actions alleging the failure to pay child support.

The bill was read second time.

Senator Gallegos offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **HB 779** (House engrossment) by striking page 1, lines 7 through 11, and substituting the following:

"(d) The court may not find a respondent in contempt of court for failure to pay child support if the respondent appears at the hearing with a copy of the payment record or other evidence satisfactory to the court showing that the respondent is current in the payment of child support as ordered by the court."

The amendment to **HB 779** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Committee Amendment No. 1.

On motion of Senator Gallegos and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 779 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 779 ON THIRD READING

Senator Gallegos moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 779** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 2265 ON SECOND READING

Senator Averitt moved to suspend the regular order of business to take up for consideration **HB 2265** at this time on its second reading:

HB 2265, Relating to the award of prizes in, and the conduct of, a progressive bingo game.

The motion prevailed.

Senators Deuell, Fraser, Harris, Janek, Nichols, Patrick, Seliger, and Shapiro asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time.

Senator Averitt offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **HB 2265** as follows:

(1) In SECTION 2 of the bill (page 1, lines 20 through 22), strike the recital and substitute the following:

Section 2001.420, Occupations Code, is amended by adding Subsections (b-1), (d), (e), (f), and (g) to read as follows:

(2) In SECTION 2 of the bill, strike amended Subsections (a) and (b), Section 2001.420, Occupations Code (page 1, line 23 through page 2, line 7), and substitute the following:

(b-1) Notwithstanding Subsection (b), a person may offer or award on a single bingo occasion prizes for progressive bingo games with an aggregate value of more than the maximum amount prescribed by Subsection (b). A jackpot prize or consolation prize offered or awarded in a progressive bingo game during a bingo occasion is not included in the aggregated value of prizes awarded at a single bingo occasion for purposes of Subsection (b).

(3) In SECTION 2 of the bill, strike added Subsection (d), Section 2001.420, Occupations Code (page 2, lines 8 and 9), and substitute the following:

(d) Notwithstanding Subsection (a), a jackpot prize for a single progressive bingo game may not have a value of more than \$2,500.

(4) In SECTION 2 of the bill, following added Subsection (f), Section 2001.420, Occupations Code (page 2, between lines 16 and 17), insert the following:

(g) Subsections (b-1), (d), (e), and (f) and this subsection expire September 1, 2011.

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

SECTION __. Effective September 1, 2011, Sections 2001.002(8-a), (13-a), and (23-a), Occupations Code, are repealed.

SECTION __. Not later than January 1, 2011, the Texas Lottery Commission shall prepare and submit to the governor, the lieutenant governor, the speaker of the house of representatives, and the members of the legislature a report on:

- (1) the implementation of progressive bingo by licensed authorized organizations as authorized by the changes in law made by this Act; and
- (2) the effect of the implementation on net bingo proceeds available for charitable purposes.

The amendment to **HB 2265** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Committee Amendment No. 1 except as follows:

Nays: Deuell, Fraser.

Senator Averitt offered the following committee amendment to the bill:

Committee Amendment No. 2

Amend **HB 2265** as follows:

(1) In the recital to SECTION 1 of the bill, between "by" and "adding" (House engrossment, page 1, line 6), insert "amending Subdivisions (11) and (19) and".

(2) In SECTION 1 of the bill, in proposed Subdivision (8-a), Section 2001.002, Occupations Code, between "organization" and "to" (House engrossment, page 1, line 9), insert "or tribal fraternal organization".

(3) In SECTION 1 of the bill, in proposed Subdivision (13-a), Section 2001.002, Occupations Code, between "organization" and "to" (House engrossment, page 1, line 13), insert "or tribal fraternal organization".

(4) In SECTION 1 of the bill, in amended Section 2001.002, Occupations Code (House engrossment, page 1, between lines 14 and 15), insert the following:

(11) "Fraternal organization" means any of the following other than an organization whose members are predominantly veterans or dependents of veterans of the armed services of the United States:

(A) a nonprofit organization organized to perform and engaged primarily in performing charitable, benevolent, patriotic, employment-related, or educational functions that meet the other requirements of this chapter; ~~or~~

(B) a nonprofit National Historical District Association representing the owners and lessees of a majority of the real property located in a National Historical District designated for not less than five years by the National Register of Historic Places, Heritage Conservation and Recreation Service of the United States Department of the Interior, if the association's net proceeds are used for restoration, construction, maintenance, and security in the district; or

(C) a nonprofit organization that:

(i) is organized under tribal law by a federally recognized Indian tribe that is not subject to the Indian Gaming Regulatory Act (18 U.S.C. Section 1166 et seq. and 25 U.S.C. Section 2701 et seq.) and that exercises tribal authority over a reservation, as defined by 25 U.S.C. Section 731 or 1300g; and

(ii) is organized to perform and is engaged primarily in performing charitable, benevolent, patriotic, employment-related, or educational functions. [The term "fraternal organization" does not include an organization whose members are predominantly veterans or dependents of veterans of the armed services of the United States.]

(19) "Nonprofit organization" means:

(A) an unincorporated association or a corporation that is incorporated or holds a certificate of authority under the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes), that [The organization]:

(i) does [~~(A) may~~] not distribute any of its income to its members, officers, or governing body, other than as reasonable compensation for services; and

(ii) has [~~(B) must have obtained~~] tax exempt status under Section 501(c), Internal Revenue Code of 1986; or

(B) a tribal organization formed by a federally recognized Indian tribe that exercises tribal authority over a reservation, as defined by 25 U.S.C. Section 731 or 1300g, to engage primarily in performing charitable, benevolent, patriotic, employment-related, or educational functions.

(5) In SECTION 1 of the bill, in proposed Subdivision (23-a), Section 2001.002, Occupations Code, between "organization" and "until" (House engrossment, page 1, line 17), insert "or tribal fraternal organization".

(6) In SECTION 2 of the bill, in proposed Subsection (e), Section 2001.420, Occupations Code, between "organization" and "may" (House engrossment, page 2, line 10), insert "or tribal fraternal organization".

(7) Insert the following appropriately numbered SECTION and renumber subsequent SECTIONS accordingly:

SECTION __. Subchapter C, Chapter 2001, Occupations Code, is amended by adding Section 2001.1015 to read as follows:

Sec. 2001.1015. CHARITABLE BINGO BY TRIBAL FRATERNAL ORGANIZATION. (a) A nonprofit organization in existence for at least 180 days that qualifies as a fraternal organization under Section 2001.002(11)(C) may conduct bingo on the reservation of the Indian tribe under whose tribal law the organization is organized on adoption by the tribe of rules governing the conduct of bingo by the organization that conform to the substantive provisions of this chapter and of Sections 47(b) and (c), Article III, Texas Constitution.

(b) In accordance with Sections 107(b) and 207(b), Ysleta del Sur Pueblo and Alabama-Coushatta Indian Tribes of Texas Restoration Act (25 U.S.C. Sections 1300g-6(b) and 737(b)), an organization described by Subsection (a) may conduct bingo activities in accordance with the tribe's rules adopted under Subsection (a) without submitting to the regulatory jurisdiction, including licensing requirements, of this state.

(c) A nonprofit organization may not conduct bingo under this section unless:

(1) the organization transfers to this state on a monthly basis an amount equal to five percent of the organization's adjusted gross receipts from bingo in the manner prescribed by the comptroller;

(2) all other proceeds are spent in Texas for charitable purposes;

(3) the games are limited to one location as defined by law on property owned or leased by the organization; and

(4) the games are conducted, promoted, and administered by members of the organization.

(d) A nonprofit organization may not conduct bingo under this section unless the organization reports quarterly to the comptroller the amount of revenue that the organization collects from the games and the purposes for which the revenue is spent. The commission may impose an administrative civil penalty against the organization for a violation of the quarterly reporting requirement. The amount of the administrative penalty may not exceed \$1,000 for each violation.

The amendment to **HB 2265** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Committee Amendment No. 2 except as follows:

Nays: Deuell, Fraser.

Senator Patrick offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 2265** by adding the following appropriately numbered SECTION to the bill and renumbering existing SECTIONS accordingly:

SECTION ____. Section 466.015, Government Code, is amended by adding Subsection (e) to read as follows:

(e) The commission shall adopt rules governing instant games that:

(1) close instant games after all top prizes in the game have been claimed or on an earlier date as determined by the executive director; and

(2) provide procedures for the timely closing of an instant game that end the sale of instant game tickets beyond the 46th day after a game has been closed.

The amendment to **HB 2265** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Nays: Deuell, Fraser.

On motion of Senator Averitt and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 2265 as amended was passed to third reading by a viva voce vote.

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

Nays: Deuell, Fraser, Harris, Janek, Nichols, Patrick, Seliger, Shapiro.

HOUSE BILL 1919 ON SECOND READING

Senator Van de Putte moved to suspend the regular order of business to take up for consideration **HB 1919** at this time on its second reading:

HB 1919, Relating to health benefit plan coverage for treatment for certain brain injuries and serious mental illnesses.

The motion prevailed.

Senators Brimer, Fraser, Harris, and Nelson asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time.

Senator Van de Putte offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **HB 1919**, House engrossment, as follows:

(1) Strike SECTION 6 of the bill, amending Subdivision (1), Section 1355.001, Insurance Code (page 8, lines 8-24).

(2) Strike SECTION 7 of the bill, amending Section 1355.007, Insurance Code (page 8, lines 25-27, and page 9, lines 1-13).

(3) Strike SECTION 8 of the bill, directing the Sunset Advisory Commission to conduct a study (page 9, lines 14-27).

(4) Renumber the SECTIONS of the bill accordingly.

The amendment to **HB 1919** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Committee Amendment No. 1.

Senator Van de Putte offered the following committee amendment to the bill:

Committee Amendment No. 2

Amend **HB 1919**, House engrossment printing, in SECTION 1 of the bill, in amended Section 1352.001, Insurance Code, by striking added Subsection (b) (page 2, lines 7-13), and substituting the following:

(b) Notwithstanding any provision in Chapter 1575, 1579, or 1601 or any other law, this chapter applies to:

(1) a basic plan under Chapter 1575;

(2) a primary care coverage plan under Chapter 1579; and

(3) basic coverage under Chapter 1601.

The amendment to **HB 1919** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Committee Amendment No. 2.

Senator Van de Putte offered the following committee amendment to the bill:

Committee Amendment No. 3

Amend **HB 1919** (House engrossment) as follows:

(1) In SECTION 5 of the bill, in added Subsection (a), Section 1352.005, Insurance Code, between "must" and "notify" (page 5, line 18), insert "annually".

(2) In SECTION 5 of the bill, strike added Subsection (d), Section 1352.005, Insurance Code (page 6, lines 10-14).

(3) In SECTION 5 of the bill, strike added Subsection (c), Section 1352.006, Insurance Code (page 7, lines 5-9).

(4) In SECTION 5 of the bill, in added Subdivision (1), Subsection (a), Section 1352.007, Insurance Code, between "acute" and "rehabilitation" (page 7, line 18), insert "or post-acute".

(5) In SECTION 5 of the bill, in added Subdivision (1), Subsection (a), Section 1352.007, Insurance Code, following the underlined semicolon (page 7, line 18), insert "and".

(6) In SECTION 5 of the bill, in added Subdivision (2), Subsection (a), Section 1352.007, Insurance Code (page 7, line 20), strike the underlined semicolon and substitute an underlined period.

(7) In SECTION 5 of the bill, strike added Subdivisions (3)-(6), Subsection (a), Section 1352.007, Insurance Code (page 7, lines 21-26).

The amendment to **HB 1919** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Committee Amendment No. 3.

Senator Lucio offered the following amendment to the bill:

Floor Amendment No. 1

HB 1919, Senate committee printing, as follows:

(1) Insert a new SECTION of the bill, appropriately numbered, to read as follows:

SECTION _____. The heading to Subchapter A, Chapter 1355, Insurance Code, is amended to read as follows:

SUBCHAPTER A. GROUP HEALTH BENEFIT PLAN COVERAGE FOR CERTAIN SERIOUS MENTAL ILLNESSES AND OTHER DISORDERS

(2) Insert a new SECTION of the bill, appropriately numbered, to read as follows:

SECTION _____. Section 1355.001, Insurance Code, is amended by amending Subdivision (1) and by adding Subdivisions (3) and (4) to read as follows:

(1) "Serious mental illness" means the following psychiatric illnesses as defined by the American Psychiatric Association in the Diagnostic and Statistical Manual (DSM):

- (A) bipolar disorders (hypomanic, manic, depressive, and mixed);
- (B) depression in childhood and adolescence;
- (C) major depressive disorders (single episode or recurrent);
- (D) obsessive-compulsive disorders;
- (E) paranoid and other psychotic disorders;
- (F) ~~pervasive developmental disorders;~~
- ~~(G)~~ schizo-affective disorders (bipolar or depressive); and
- ~~(H)~~ schizophrenia.

(3) "Autism spectrum disorder" means a neurobiological disorder that includes autism, Asperger's syndrome, or Pervasive Developmental Disorder—Not Otherwise Specified.

(4) "Neurobiological disorder" means an illness of the nervous system caused by genetic, metabolic, or other biological factors.

(3) Insert a new SECTION of the bill, appropriately numbered, to read as follows:

SECTION ____. Subchapter A, Chapter 1355, Insurance Code, is amended by adding Section 1355.015 to read as follows:

Sec. 1355.015. REQUIRED COVERAGE FOR CERTAIN CHILDREN. (a) At a minimum, a health benefit plan must provide coverage as provided by this section to an enrollee older than two years of age and younger than six years of age who is diagnosed with autism spectrum disorder. If an enrollee who is being treated for autism spectrum disorder becomes six years of age or older and continues to need treatment, this subsection does not preclude coverage of treatment and services described by Subsection (b).

(b) The health benefit plan must provide coverage under this section to the enrollee for all generally recognized services prescribed in relation to autism spectrum disorder by the enrollee's primary care physician in the treatment plan recommended by that physician. An individual providing treatment prescribed under this subsection must be a health care practitioner:

(1) who is licensed, certified, or registered by an appropriate agency of this state;

(2) whose professional credential is recognized and accepted by an appropriate agency of the United States; or

(3) who is certified as a provider under the TRICARE military health system.

(c) For purposes of Subsection (b), "generally recognized services" may include services such as:

(1) evaluation and assessment services;

(2) applied behavior analysis;

(3) behavior training and behavior management;

(4) speech therapy;

(5) occupational therapy;

(6) physical therapy; or

(7) medications or nutritional supplements used to address symptoms of autism spectrum disorder.

(d) Coverage under Subsection (b) may be subject to annual deductibles, copayments, and coinsurance that are consistent with annual deductibles, copayments, and coinsurance required for other coverage under the health benefit plan.

(e) Notwithstanding any other law, this section does not apply to a standard health benefit plan provided under Chapter 1507.

(4) Renumber the SECTIONS of the bill accordingly.

The amendment to **HB 1919** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 2

Amend **HB 1919** (Senate committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS accordingly:

SECTION __. The heading to Subchapter A, Chapter 1355, Insurance Code, is amended to read as follows:

SUBCHAPTER A. [~~GROUP~~] HEALTH BENEFIT PLAN COVERAGE FOR CERTAIN MENTAL DISORDERS AND SERIOUS MENTAL ILLNESSES

SECTION __. Subchapter A, Chapter 1355, Insurance Code, is amended by amending Section 1355.001 and by adding Section 1355.0015 to read as follows:

Sec. 1355.001. PURPOSE. The legislature recognizes that mental illnesses are biologically based and treatable and that, with appropriate care, individuals with mental illness can live productive and successful lives. The purpose of this subchapter is to ensure that this recognition is reflected in group health benefit plans by requiring that the benefits provided for mental disorders be equal to those provided for other medical and surgical conditions.

Sec. 1355.0015. DEFINITIONS. In this subchapter:

(1) "Enrollee" means an individual who is enrolled in a group health benefit plan, including a covered dependent.

(2) "Mental disorder" means a disorder defined by the American Psychiatric Association in the Diagnostic and Statistical Manual of Mental Disorders (DSM), fourth edition, or a subsequent edition of that manual that the commissioner by rule adopts to take the place of the fourth edition, except that the term does not include:

(A) a mental disorder classified under that manual as a "V-code" disorder;

(B) mental retardation;

(C) a learning disorder;

(D) a motor skill disorder; or

(E) a communication disorder.

(3) "Serious mental illness" means a mental disorder that is one of the following psychiatric illnesses as defined by the American Psychiatric Association in the Diagnostic and Statistical Manual of Mental Disorders (DSM), fourth edition, or a subsequent edition of that manual that the commissioner by rule adopts to take the place of the fourth edition:

(A) bipolar disorders (hypomanic, manic, depressive, and mixed);

(B) depression in childhood and adolescence;

(C) major depressive disorders (single episode or recurrent);

(D) obsessive-compulsive disorders;

(E) paranoid and other psychotic disorders;

(F) pervasive developmental disorders;

(G) schizo-affective disorders (bipolar or depressive); and

(H) schizophrenia.

(4) [~~2~~] "Small employer" has the meaning assigned by Section 1501.002.

SECTION __. Section 1355.002, Insurance Code, is amended to read as follows:

Sec. 1355.002. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a group health benefit plan that provides benefits for medical or surgical expenses incurred as a result of a health condition, accident, or sickness, including:

(1) a group insurance policy, group insurance agreement, group hospital service contract, or group evidence of coverage that is offered by:

- (A) an insurance company;
- (B) a group hospital service corporation operating under Chapter 842;
- (C) a fraternal benefit society operating under Chapter 885;
- (D) a stipulated premium company operating under Chapter 884; or
- (E) a health maintenance organization operating under Chapter 843;

and

(2) ~~[to the extent permitted by the Employee Retirement Income Security Act of 1974 (29 U.S.C. Section 1001 et seq.), a plan offered under:~~

~~[(A) a multiple employer welfare arrangement that holds a certificate of authority under Chapter 846 [as defined by Section 3 of that Act; or~~

~~[(B) another analogous benefit arrangement].~~

SECTION __. Subsections (a) and (b), Section 1355.003, Insurance Code, is amended to read as follows:

(a) This subchapter does not apply to coverage under:

(1) a blanket accident and health insurance policy, as described by Chapter 1251;

(2) a short-term travel policy;

(3) an accident-only policy;

(4) a plan that provides coverage:

(A) only for benefits for a specified disease or for another limited benefit, other than a plan that provides benefits for mental health or similar services;

(B) only for accidental death or dismemberment;

(C) for wages or payments in lieu of wages for a period during which an employee is absent from work because of sickness or injury;

(D) as a supplement to a liability insurance policy;

(E) only for dental or vision care; or

(F) only for indemnity for hospital confinement;

(5) a Medicare supplemental policy as defined by Section 1882(g)(1), Social Security Act (42 U.S.C. Section 1395ss);

(6) a workers' compensation insurance policy;

(7) medical payment insurance coverage provided under an automobile insurance policy;

(8) a credit insurance policy;

(9) a long-term care insurance policy, including a nursing home fixed indemnity policy, unless the commissioner determines that the policy provides benefit coverage so comprehensive that the policy is a group health benefit plan as described by Section 1355.002 [limited or specified disease policy that does not provide benefits for mental health care or similar services];

(10) ~~(5)~~ except as provided by Subsection (b), a plan offered under Chapter 1551 or Chapter 1601; or

(11) ~~(6)~~ a plan offered in accordance with Section 1355.151[~~5~~]; or

~~[(7) a Medicare supplement benefit plan, as defined by Section 1652.002].~~

(b) For the purposes of a plan described by Subsection (a)(10) ~~[(a)(5)]~~, "serious mental illness" has the meaning assigned by Section 1355.0015.

SECTION _____. Subchapter A, Chapter 1355, Insurance Code, is amended by adding Sections 1355.0031 through 1355.0035 to read as follows:

Sec. 1355.0031. COVERAGE EQUITY REQUIRED. (a) Except as provided by Subsection (c), a group health benefit plan that provides coverage for any mental disorder must provide coverage for the diagnosis and medically necessary treatment of that mental disorder under terms at least as favorable as the coverage provided under the health benefit plan for the diagnosis and treatment of medical and surgical conditions.

(b) A group health benefit plan may not establish separate cost-sharing requirements that are only applicable to coverage for mental disorders.

(c) A group health benefit plan that is a standard health benefit plan under Chapter 1507, except for a plan issued to a small employer, is required to provide coverage for a mental disorder only if the mental disorder is a serious mental illness, and only to the extent required by Sections 1355.004(b) and (c) and Sections 1507.003 and 1507.053.

Sec. 1355.0032. TREATMENT LIMITATIONS; FINANCIAL REQUIREMENTS. (a) For purposes of this section:

(1) "Financial requirements" include requirements relating to deductibles, copayments, coinsurance, out-of-pocket expenses, and annual and lifetime limits.

(2) "Treatment limitations" include limitations on the frequency of treatments, number of visits, days of coverage, or other similar limits on the scope and duration of coverage.

(b) A group health benefit plan that provides coverage for the diagnosis and medically necessary treatment of mental disorders may not impose treatment limitations or financial requirements on the provision of benefits under that coverage if identical limitations or requirements are not imposed on coverage for the diagnosis and treatment of medical and surgical conditions covered by the plan.

(c) This section does not prohibit a group health benefit plan issuer from negotiating separate reimbursement or provider payment rates and service delivery systems for different benefits that are consistent with the requirements under Subsection (b) regarding treatment limitations and financial requirements.

(d) This section does not prohibit a group health benefit plan issuer from managing the provision of benefits for treatment of mental disorders as necessary to provide services for covered benefits, including:

(1) use of any utilization review, authorization, or other similar management practices;

(2) application of medical necessity and appropriateness criteria applicable to behavioral health; and

(3) contracting with and using a network of providers.

(e) This section does not prohibit a group health benefit plan from complying with the requirements of this subchapter in a manner that takes into consideration similar treatment settings or similar treatments.

Sec. 1355.0033. OUT-OF-NETWORK COVERAGE. (a) If a group health benefit plan offers out-of-network coverage for medical and surgical benefits under the plan, the group health benefit plan must also offer out-of-network coverage for benefits for treatment of mental disorders.

(b) If the group health benefit plan provides benefits for medical and surgical conditions and treatment of mental disorders, and provides those benefits on both an in-network and out-of-network basis under the terms of the plan, the group health benefit plan must ensure that the requirements of this subchapter are applied to both in-network and out-of-network services by comparing in-network medical and surgical benefits to in-network benefits for treatment of mental disorders and out-of-network medical and surgical benefits to out-of-network benefits for treatment of mental disorders.

(c) This section may not be construed as requiring that a group health benefit plan eliminate an out-of-network provider option from the plan under the terms of the plan.

Sec. 1355.0034. SMALL EMPLOYER PLANS. An issuer of a group health benefit plan to a small employer under Chapter 1501 must offer coverage for mental disorders that are not classified as serious mental illnesses that is equal to that provided under the plan for other medical and surgical care, but is not required to provide the coverage if the employer rejects the coverage.

Sec. 1355.0035. COST EXEMPTION. (a) If the issuer of a group health benefit plan experiences increased actual total costs of coverage, as a result of compliance with the coverage equity requirements adopted under Sections 1355.0031-1355.0034, that exceed two percent during the first year of operation of the plan, that plan is exempt in the manner prescribed by this section from application of those equity requirements for the following second plan year if the group health benefit plan issuer complies with the requirements of this section.

(b) If the issuer of a group health benefit plan experiences increased actual total costs of coverage, as a result of compliance with the coverage equity requirements adopted under Sections 1355.0031-1355.0034, that exceed one percent during a year of operation after the first plan year, that plan is exempt in the manner prescribed by this section from application of those equity requirements for the following plan year if the group health benefit plan issuer complies with the requirements of this section.

(c) A group health benefit plan issuer that seeks an exemption under Subsection (a) or (b) must apply to the department in the manner prescribed by the commissioner. A group health benefit plan issuer is only eligible to seek a cost exemption under this section after the group health benefit plan has complied with the coverage equity requirements of this subchapter for at least the first six months of the plan year in which application is made.

(d) To qualify for the cost exemption under Subsection (a) or (b), a group health benefit plan issuer must submit the application required under Subsection (c), accompanied by the written certification of a qualified actuary who is a member in good standing of the American Academy of Actuaries that the increase in costs described by Subsection (a) or (b) is solely the result of compliance with the coverage equity requirements of this subchapter.

(e) The department shall review the actuarial assessment submitted under Subsection (d). Based on the department review of the assessment, the commissioner shall inform the issuer of the group health benefit plan in writing as to whether or not the assessment satisfactorily demonstrates that the cost exemption is justified under Subsection (a) or (b). On receipt of a determination from the commissioner that the cost exemption is justified, the group health benefit plan is exempt from the coverage equity requirements of this subchapter as provided by this section.

(f) Notwithstanding Subsection (a) or (b), an employer may elect to continue to apply the coverage equity requirements adopted under this subchapter with respect to the group health benefit plan regardless of any increase in total costs.

SECTION __. Sections 1355.004, 1355.005, and 1355.007, Insurance Code, are amended to read as follows:

Sec. 1355.004. REQUIRED COVERAGE FOR SERIOUS MENTAL ILLNESS. (a) Except as provided by Subsections (b) and (c), a [A] group health benefit plan[+]

[(+) must provide coverage, based on medical necessity, for the diagnosis and medically necessary treatment [not less than the following treatments] of serious mental illness under terms at least as favorable as the coverage provided under the health benefit plan for the diagnosis and treatment of medical and surgical conditions.

(b) A group health benefit plan issuer that issues a standard health benefit plan under Chapter 1507, except for a plan issued to a small employer:

(1) must provide coverage, based on medical necessity, for not less than the following treatments of serious mental illness in each calendar year:

(A) 45 days of inpatient treatment; and

(B) 60 visits for outpatient treatment, including group and individual outpatient treatment;

(2) may not include a lifetime limitation on the number of days of inpatient treatment or the number of visits for outpatient treatment covered under the plan; and

(3) must include the same amount limitations, deductibles, copayments, and coinsurance factors for serious mental illness as the plan includes for physical illness.

(c) [(+)] A group health benefit plan issuer that issues a standard health benefit plan under Chapter 1507:

(1) may not count an outpatient visit for medication management against the number of outpatient visits required to be covered under Subsection (b)(1)(B) [(a)(1)(B)]; and

(2) must provide coverage for an outpatient visit described by Subsection (b)(1)(B) [(a)(1)(B)] under the same terms as the coverage the issuer provides for an outpatient visit for the treatment of physical illness.

Sec. 1355.005. MANAGED CARE PLAN AUTHORIZED. A group health benefit plan issuer may provide or offer coverage required by this subchapter [Section 1355.004] through a managed care plan.

Sec. 1355.007. SMALL EMPLOYER COVERAGE. An issuer of a group health benefit plan to a small employer under Chapter 1501 must offer the coverage for serious mental illnesses described by Section 1355.004(a) [+55.004] to the employer but is not required to provide the coverage if the employer rejects the coverage.

SECTION __. Subchapter A, Chapter 1355, Insurance Code, is amended by adding Section 1355.008 to read as follows:

Sec. 1355.008. RULES. The commissioner shall adopt rules in the manner prescribed by Subchapter A, Chapter 36, as necessary to administer this subchapter.

SECTION 8. The change in law made by this Act applies only to a group health benefit plan delivered, issued for delivery, or renewed on or after January 1, 2008. A group health benefit plan delivered, issued for delivery, or renewed before January 1, 2008, is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 9. This Act takes effect September 1, 2007.

The amendment to **HB 1919** was read.

Question — Shall Floor Amendment No. 2 to **HB 1919** be adopted?

AT EASE

The Presiding Officer, Senator Watson in Chair, at 4:39 p.m. announced the Senate would stand At Ease subject to the call of the Chair.

IN LEGISLATIVE SESSION

Senator Eltife at 4:58 p.m. called the Senate to order as In Legislative Session.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

May 23, 2007

The Honorable President of the Senate

Senate Chamber

Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

HCR 206, Respectfully encouraging congress to direct the secretary of the United States Department of Health and Human Services to withdraw proposed rule CMS-2258-P.

THE HOUSE HAS CONCURRED IN SENATE AMENDMENTS TO THE FOLLOWING MEASURES:

HB 142 (145 Yeas, 0 Nays, 2 Present, not voting)

HB 412 (137 Yeas, 7 Nays, 2 Present, not voting)

HB 567 (144 Yeas, 0 Nays, 2 Present, not voting)

HB 621 (145 Yeas, 0 Nays, 2 Present, not voting)

HB 888 (144 Yeas, 0 Nays, 1 Present, not voting)

HB 1034 (142 Yeas, 1 Nays, 1 Present, not voting)

HB 1297 (144 Yeas, 2 Nays, 2 Present, not voting)

HB 1374 (141 Yeas, 0 Nays, 2 Present, not voting)

HB 1921 (139 Yeas, 0 Nays, 2 Present, not voting)

HB 2352 (139 Yeas, 4 Nays, 2 Present, not voting)

HB 2445 (145 Yeas, 0 Nays, 2 Present, not voting)

HB 2549 (145 Yeas, 0 Nays, 2 Present, not voting)

HB 2639 (143 Yeas, 0 Nays, 3 Present, not voting)

HB 2694 (141 Yeas, 0 Nays, 2 Present, not voting)

HB 2761 (143 Yeas, 0 Nays, 2 Present, not voting)

HB 2766 (144 Yeas, 0 Nays, 3 Present, not voting)

HB 2984 (143 Yeas, 0 Nays, 2 Present, not voting)

HB 3011 (144 Yeas, 0 Nays, 2 Present, not voting)

HB 3352 (140 Yeas, 0 Nays, 2 Present, not voting)

HB 3367 (143 Yeas, 0 Nays, 2 Present, not voting)

HB 3457 (121 Yeas, 23 Nays, 2 Present, not voting)

THE HOUSE HAS REFUSED TO CONCUR IN SENATE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

HB 119 (non-record vote)

House Conferees: Brown, Fred - Chair/Hancock/Hernandez/Howard, Donna/Isett, Carl

HB 155 (non-record vote)

House Conferees: Pickett - Chair/Quintanilla/Rodriguez/Solomons/Truitt

HB 1522 (non-record vote)

House Conferees: Harless - Chair/Deshotel/Murphy/Smith, Wayne/Vaught

HB 2096 (non-record vote)

House Conferees: Quintanilla - Chair/King, Tracy/Lucio III/Pena/Pickett

HB 2819 (non-record vote)

House Conferees: Ritter - Chair/Cook, Robby/Garcia/Herrero/Ortiz, Jr.

HB 3105 (non-record vote)

House Conferees: Anchia - Chair/Bohac/Burnam/England/Farias

HB 3849 (non-record vote)

House Conferees: Hilderbran - Chair/Harless/Homer/Kuempel/O'Day

HB 3928 (non-record vote)

House Conferees: Keffer, Jim - Chair/Chisum/Otto/Pena/Smithee

THE HOUSE HAS TAKEN THE FOLLOWING OTHER ACTION:

HB 2510

Point of order sustained due to non-germane Senate amendments. The House hereby returns HB 2510 to the Senate for further action.

HB 3350

Point of order sustained due to non-germane Senate amendments. The House hereby returns HB 3350 to the Senate for further action.

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

Question — Shall Floor Amendment No. 2 to **HB 1919** be adopted?

On motion of Senator Ellis, Floor Amendment No. 2 to **HB 1919** was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2 except as follows:

Nays: Brimer, Fraser, Harris, Nelson.

On motion of Senator Van de Putte and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 1919 as amended was passed to third reading by a viva voce vote.

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

Nays: Brimer, Fraser, Harris, Nelson, Ogden.

HOUSE BILL 1919 ON THIRD READING

Senator Van de Putte moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1919** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 5.

Yeas: Averitt, Carona, Deuell, Duncan, Ellis, Eltife, Estes, Gallegos, Hegar, Hinojosa, Jackson, Janek, Lucio, Nichols, Patrick, Seliger, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Brimer, Fraser, Harris, Nelson, Ogden.

The bill was read third time and was passed by the following vote: Yeas 26, Nays 5. (Same as previous roll call)

HOUSE BILL 2265 ON THIRD READING

Senator Averitt moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2265** be placed on its third reading and final passage:

HB 2265, Relating to the award of prizes in, and the conduct of, a progressive bingo game.

The motion prevailed by the following vote: Yeas 26, Nays 5.

Yeas: Averitt, Brimer, Carona, Duncan, Ellis, Eltife, Estes, Gallegos, Hegar, Hinojosa, Jackson, Janek, Lucio, Nelson, Ogden, Patrick, Seliger, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Deuell, Fraser, Harris, Nichols, Shapiro.

The bill was read third time and was passed by the following vote: Yeas 26, Nays 5. (Same as previous roll call)

**VOTE RECONSIDERED ON
HOUSE BILL 3200**

On motion of Senator Whitmire and by unanimous consent, the vote by which **HB 3200** was finally passed was reconsidered:

HB 3200, Relating to funding for community supervision and corrections departments.

Question — Shall **HB 3200** be finally passed?

Senator Whitmire offered the following amendment to the bill:

Floor Amendment No. 1 on Third Reading

Amend **HB 3200** on third reading by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION __. Section 508.283, Government Code, is amended by amending Subsections (a) and (e) and adding Subsections (e-1), (f), (g), and (h) to read as follows:

(a) After a parole panel or designated agent of the board has held a hearing under Section 508.281, in any manner warranted by the evidence:

(1) the board may recommend to the governor to continue, revoke, or modify the conditional pardon; and

(2) except as provided by Subsection (g), a parole panel may continue, revoke, or modify the parole or mandatory supervision.

(e) If a person's parole or mandatory supervision is modified after it is established that the person violated conditions of release, the parole panel [board] may require the releasee to remain under custodial supervision in a county jail for a period of not less than 60 days or more than 180 days. The parole panel may require a person to remain under custodial supervision under this subsection each time the board modifies the person's parole or mandatory supervision.

(e-1) A sheriff is required to accept an inmate sanctioned under Subsection (e) ~~[this subsection]~~ only if the commissioners court of the county in which the sheriff serves and the Texas Department of Criminal Justice have entered into a contract providing for the housing of persons sanctioned under this subsection.

(f) If a person's parole or mandatory supervision is modified and the parole panel requires the person to serve a term of confinement and treatment in a substance abuse treatment facility operated under Section 493.009 as a condition of the modification, the term must be not less than 180 days and not more than one year. This subsection does not apply to a sex offender or an inmate under super-intensive supervision parole under Section 508.317(d).

(g) Except as provided by Subsection (h), a parole panel may not revoke a person's parole or mandatory supervision under this section if the person committed only an administrative violation of a condition of release.

(h) A parole panel may revoke a person's parole or mandatory supervision under this section if the person:

(1) has failed to report to the parole officer supervising the person for a period of at least one year; or

(2) is arrested outside of this state on a warrant issued under Section 508.251.

SECTION __. Subchapter I, Chapter 508, Government Code, is amended by adding Section 508.285 to read as follows:

Sec. 508.285. SANCTION: CONFINEMENT IN INTERMEDIATE SANCTION FACILITY. (a) After a hearing under Section 508.281, if a parole panel modifies a person's parole or mandatory supervision because the person violated the person's conditions of release, the panel may require the person to remain under custodial supervision in an intermediate sanction facility operated by or under contract with the department for a term of not less than 60 days or more than one year. This subsection does not apply to a sex offender or an inmate under super-intensive supervision parole under Section 508.317(d).

(b) A parole panel may require a person to remain under custodial supervision as described by Subsection (a) each time the panel modifies the person's parole or mandatory supervision.

SECTION __. The change in law made by Section 508.283, Government Code, as amended by this Act, and Section 508.285, Government Code, as added by this Act, applies only to a determination by a parole panel made on or after the effective date of this Act. A determination made before the effective date of this Act is covered by the law in effect on the date the determination was made, and the former law is continued in effect for that purpose.

The amendment to **HB 3200** was read.

Senator Whitmire moved to postpone further consideration of the bill to a time certain of 7:00 p.m. today.

The motion prevailed.

Question — Shall Floor Amendment No. 1 on Third Reading to **HB 3200** be adopted?

**MOTION TO PLACE
COMMITTEE SUBSTITUTE
HOUSE BILL 782 ON SECOND READING**

Senator Harris moved to suspend the regular order of business to take up for consideration **CSHB 782** at this time on its second reading:

CSHB 782, Relating to genetic testing in the determination of parentage and to a proceeding to vacate an order of paternity or child support.

The motion was lost by the following vote: Yeas 1, Nays 30.

Yeas: Wentworth.

Nays: Averitt, Brimer, Carona, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hegar, Hinojosa, Jackson, Janek, Lucio, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, West, Whitmire, Williams, Zaffirini.

HOUSE BILL 814 ON SECOND READING

Senator Ellis moved to suspend the regular order of business to take up for consideration **HB 814** at this time on its second reading:

HB 814, Relating to the payment of child support obligations on behalf of persons wrongfully imprisoned.

The motion prevailed.

Senators Brimer and Shapiro asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time.

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 814** (Senate committee printing) as follows:

(1) Strike SECTION 2 of the bill (page 1, lines 31 through 52) and substitute the following:

SECTION 2. Section 103.052, Civil Practice and Remedies Code, is amended by amending Subsections (a) and (b) and adding Subsections (a-1) and (d) to read as follows:

(a) A person who meets the requirements of Section 103.001 is entitled to compensation in an amount equal to:

(1) \$50,000 [~~\$25,000~~] multiplied by the number of years served in prison, expressed as a fraction to reflect partial years; and [~~if the time served is less than 20 years; or~~]

(2) compensation for child support payments owed by the person that became due and interest on child support arrearages that accrued during the time served in prison but were not paid [~~\$500,000 if the time served is 20 years or more~~].

(a-1) Notwithstanding Subsection (a)(1), a person sentenced to death who meets the requirements of Section 103.001 is entitled to compensation in an amount equal to \$100,000 multiplied by the number of years served in prison, expressed as a fraction to reflect partial years.

(b) A person who is owed an amount of compensation under Subsection (a)(1) or (a-1) equal to or greater than \$50,000 shall be paid that compensation in two equal annual installments.

(d) The amount of compensation under Subsection (a)(2) to which a person is entitled shall be paid on the person's behalf in a lump-sum payment to the state disbursement unit, as defined by Section 101.0302, Family Code, for distribution to the obligee under the child support order.

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

SECTION _____. Section 103.105(c), Civil Practice and Remedies Code, is repealed.

(3) In SECTION 8 of the bill (page 3, line 7), strike "The changes" and substitute "(a) Except as provided by Subsection (b) of this section, the changes".

(4) In SECTION 8 of the bill (page 3, between lines 10 and 11) insert Subsection (b) to read as follows:

(b) Sections 103.052(a)(1) and (a-1), Civil Practice and Remedies Code, as amended and added, respectively, by this Act, apply to an administrative proceeding for compensation for wrongful imprisonment for which the application is filed on or after the effective date of this Act. An application filed before the effective date of this Act is governed by the law in effect on the date of the filing, and that law is continued in effect for that purpose.

The amendment to **HB 814** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Nays: Brimer, Shapiro.

On motion of Senator Ellis and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 814 as amended was passed to third reading by a viva voce vote.

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

Nays: Brimer, Shapiro.

HOUSE BILL 814 ON THIRD READING

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 814** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 2.

Yeas: Averitt, Carona, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hegar, Hinojosa, Jackson, Janek, Lucio, Nelson, Nichols, Ogden, Patrick, Seliger, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Brimer, Shapiro.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 2. (Same as previous roll call)

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

May 23, 2007

The Honorable President of the Senate
Senate Chamber
Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

SB 29, Relating to the creation of a minimum data set for the collection of information on health professionals by the statewide health coordinating council.

(Committee Substitute)

SB 36, Relating to the examination of certain applicants for a license to practice medicine.

(Committee Substitute)

SB 155, Relating to the regulation of chemical dependency counselors.

(Committee Substitute)

SB 162, Relating to property tax abatement agreements entered into by the Dallas County Utility and Reclamation District pertaining to single-family residential property and to the validation of certain actions of the district.

SB 191, Relating to the demolition of certain sports and community venues.

SB 230, Relating to the notification required when certain school students who engage in certain criminal conduct transfer to a new school.

SB 297, Relating to the composition of the committee appointed to review the uniform general conditions of state building construction contracts.

SB 309, Relating to the requirement that a career school or college adopt a refund policy for students called to active military service.

SB 333, Relating to driving a commercial motor vehicle in violation of an out-of-service order; providing a criminal penalty.

SB 363, Relating to protecting certain members of the Texas National Guard from exposure to depleted uranium and assisting certain members who may have been exposed to obtain federal government services.

(Committee Substitute)

SB 401, Relating to the creation of the Moore Farm Water Control and Improvement District No. 1 of Kaufman County; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

SB 406, Relating to a motion for recusal or disqualification of a statutory probate court judge.

(Committee Substitute)

SB 410, Relating to the authority of certain municipal peace officers on a lake located partly in a municipality.

(Committee Substitute)

SB 415, Relating to a risk assessment program for Type 2 diabetes and the creation of the Type 2 Diabetes Risk Assessment Program Advisory Committee.

SB 469, Relating to the creation by the Texas Higher Education Coordinating Board of a certificate of recognition for persons who contribute certain gifts or donations to public institutions of higher education.

SB 552, Relating to the accreditation of basic food safety education and training programs for food handlers.

SB 556, Relating to the creation of an interagency obesity council.

SB 585, Relating to the authority of the Edwards Aquifer Authority to adopt rules relating to fire control.

SB 606, Relating to the disclosure of the name of a student or minor who is a victim of abuse or unlawful conduct by an educator.

SB 610, Relating to the boundaries, powers, and governance of the Salt Fork Water Quality District.

SB 617, Relating to the payment of the child support obligation of a deceased child support obligor.

(Amended)

SB 649, Relating to a study by the Texas Higher Education Coordinating Board concerning the effectiveness of joint partnerships between institutions of higher education.

(Committee Substitute)

SB 662, Relating to transmittal to the Texas Water Development Board and a local groundwater conservation district of certain information by a person applying to subdivide a tract of land.

(Amended)

SB 683, Relating to the creation and powers of the Fort Bend County Municipal Utility District No. 182, including powers related to the construction, maintenance, operation, and financing of roads or turnpikes; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

SB 684, Relating to the creation of the Waller County Municipal Utility District No. 1; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

SB 685, Relating to an exemption from tuition and mandatory fees for certain members of the Texas National Guard.

SB 704, Relating to the small contractor participation assistance program for certain state construction projects.

SB 707, Relating to the powers and duties of the Rio Grande Regional Water Authority and the establishment of a member conference.

SB 714, Relating to reports regarding certain water wells required by a groundwater conservation district.

(Committee Substitute)

SB 737, Relating to the amount of hazardous duty pay for certain state employees.

SB 747, Relating to the authority of the Barton Springs-Edwards Aquifer Conservation District to charge certain fees and limit groundwater production during a drought.

- SB 760**, Relating to participation and reimbursement of telemedicine medical service providers under the Medicaid program.
- SB 778**, Relating to the use of certain technology to conduct certain mental health proceedings.
(Committee Substitute)
- SB 791**, Relating to classifying oysters as an inherently unsafe product for personal consumption.
- SB 827**, Relating to the public schools eligible to receive certain grants from the Department of Agriculture.
- SB 878**, Relating to residential property exemptions from taxes, assessments, and impact fees in the Greater East End Management District.
- SB 919**, Relating to the creation of the Viridian Municipal Management District; providing the authority to issue bonds and impose taxes.
(Committee Substitute)
- SB 960**, Relating to the administration of exit-level state assessment instruments to transfer students who are dependents of military personnel.
(Amended)
- SB 962**, Relating to funding under the instructional facilities allotment and to payment of existing debt for school districts affected by troop reassignments at military installations.
(Amended)
- SB 964**, Relating to the board of directors of a regional tollway authority.
(Amended)
- SB 965**, Relating to the powers and duties of a regional tollway authority related to turnpikes and other related projects.
(Amended)
- SB 992**, Relating to the use of money from the permanent fund for health-related programs to provide grants to nursing education programs.
- SB 994**, Relating to prescriptions for certain controlled substances.
- SB 1007**, Relating to student representation on the Texas Higher Education Coordinating Board and certain coordinating board advisory committees.
- SB 1032**, Relating to the issuance of Insure Texas Kids specialty license plates.
- SB 1046**, Relating to the provision of notice to institutions of higher education of meetings of the Texas Higher Education Coordinating Board and to certain telephone conference meetings of the board and other boards of institutions of higher education.
- SB 1050**, Relating to the administration of the work-study student mentorship program by the Texas Higher Education Coordinating Board.
- SB 1051**, Relating to course requirements for students enrolled in joint degree programs between certain general academic teaching institutions and foreign universities.

SB 1053, Relating to assessing the quality and effectiveness of academic advising services offered by public institutions of higher education.

SB 1058, Relating to reintegration counseling services and related resources for military servicemembers.
(Amended)

SB 1070, Relating to the creation of Booth Ranch Municipal Utility District of Fort Bend County, Texas; providing authority to impose taxes and issue bonds; granting the power of eminent domain.

SB 1071, Relating to the creation of Cade Ranch Water Control and Improvement District No. 1 of Galveston County; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

SB 1083, Relating to authorizing a judge or justice of the peace to request and obtain a copy of certain defendants' driving records from the Department of Public Safety of the State of Texas using TexasOnline.

SB 1127, Relating to the penalty for certain violations of county traffic regulations.

SB 1128, Relating to the Texas Rural Foundation.

SB 1138, Relating to risk management programs for members and advisors of student organizations at public and private postsecondary educational institutions and to certain insurance requirements for fraternities.

SB 1161, Relating to the filing of a complaint or referral to juvenile court by a school district against a student for failing to attend school.

SB 1180, Relating to the powers and duties of the DeWitt Medical District.

SB 1185, Relating to certain low-interest home loan programs offered by the state.
(Committee Substitute)

SB 1205, Relating to the powers and duties of the Kaufman County Municipal Utility District Nos. 2, 3, 4, 5, 6, and 7; providing authority to impose a tax and issue bonds.

SB 1207, Relating to the removal by the county commissioners court of appointed special district board members who engage in misconduct.
(Committee Substitute)

SB 1231, Relating to dropping courses and student withdrawals at institutions of higher education, including the refunding of tuition and mandatory fees.
(Committee Substitute/Amended)

SB 1233, Relating to the general deposit paid by a student to a public institution of higher education.
(Committee Substitute)

SB 1234, Relating to a master plan for higher education in this state.
(Amended)

SB 1237, Relating to the powers and duties of defense base development authorities; modifying the power of eminent domain.

SB 1238, Relating to local regulation of the distance requirements for the sale and consumption of alcoholic beverages near certain homeless shelters and substance abuse treatment centers.

SB 1245, Relating to the creation of Kendall County Water Control and Improvement District No. 2; providing authority to impose a tax and issue bonds; granting the power of eminent domain.
(Committee Substitute)

SB 1254, Relating to the Texas Health Insurance Risk Pool.

SB 1255, Relating to the powers and duties of certain small and large employer health cooperatives.

SB 1271, Relating to county authority to acquire a water or sewer utility system and provide water and sewer services within a municipality.

SB 1274, Relating to the compounding of a drug or device by a pharmacist.

SB 1288, Relating to requiring certain defendants in common nuisance suits to provide telephone access to and information regarding an information and referral hotline for victims of human trafficking.

SB 1310, Relating to the reimbursement of travel expenses for state employees.

SB 1380, Relating to fees charged for public health services by certain governmental entities.

SB 1383, Relating to district hearings and citizen suits for illegally drilling or operating a water well.
(Committee Substitute)

SB 1391, Relating to requirements in certain health benefit plans that certain health care services be obtained in a foreign country.
(Amended)

SB 1404, Relating to criminal law hearing officers in certain counties.

SB 1414, Relating to the application of the professional prosecutors law to the district attorney for the 143rd Judicial District.

SB 1433, Relating to the Employers for Education Excellence Award.

SB 1440, Relating to certain duties of the Office of Rural Community Affairs relating to assisting volunteer fire departments and emergency services districts in rural areas.

SB 1446, Relating to the removal of indirect cost recovery fees from the list of items that must be accounted for as educational and general funds by institutions of higher education.

SB 1456, Relating to information and training for public school educators in the prevention of child abuse.

SB 1483, Relating to eviction suits in justice courts.

SB 1495, Relating to student fees at component institutions of The Texas A&M University System.

SB 1504, Relating to a school district policy for responding to a train derailment near a district school.

SB 1510, Relating to the time for preparing an annual budget in certain counties.

SB 1517, Relating to an exemption for students enrolled in certain advanced courses from the requirement that a student be suspended from participation in extracurricular activities for receiving an unsatisfactory grade.

(Amended)

SB 1524, Relating to the protection and preservation of caves in the State of Texas; providing penalties.

SB 1526, Relating to regulation by the Brookshire-Katy Drainage District of the construction of drainage facilities or improvements.

SB 1535, Relating to the issuance of bonds by a municipality for a defined area in an abolished municipal utility district; authorizing a tax.

(Committee Substitute)

SB 1548, Relating to certain open meetings requirements applicable to a regional mobility authority.

SB 1566, Relating to the creation of the Texas Bleeding Disorders Advisory Council.

(Committee Substitute)

SB 1601, Relating to the operation of the Joint Admission Medical Program and to admission to the program.

(Amended)

SB 1624, Relating to genetic testing in proceedings to declare heirship; providing a criminal penalty.

(Committee Substitute)

SB 1658, Relating to the authority of a pharmacist to fill certain prescriptions in the event of a disaster.

(Committee Substitute)

SB 1668, Relating to license, stamp, tag, and permit provisions administered by the Parks and Wildlife Department.

SB 1669, Relating to revenue generated from and uses of public hunting lands and wildlife management areas.

SB 1713, Relating to the authority of a parent to designate a child-care facility or grandparent's residence for purposes of transportation provided by a public school transportation system.

SB 1714, Relating to regulation of dairy products.

(Amended)

SB 1724, Relating to abolishing the Texas Military Facilities Commission and transferring its functions to the adjutant general.

(Committee Substitute)

SB 1729, Relating to the regulation of elevators, escalators, and related equipment.
(Committee Substitute/Amended)

SB 1733, Relating to certain required provisions in lease agreements used for developments that are supported with a low income housing tax credit allocation.

SB 1743, Relating to the powers of the Red River Redevelopment Authority; providing authority to issue bonds.

SB 1762, Relating to a study by the Texas Water Development Board regarding the impact of climate change on surface water supplies from the portion of the Rio Grande in Texas subject to the Rio Grande Compact.

SB 1829, Relating to fees for certain commercial licenses issued by the Parks and Wildlife Department.

SB 1833, Relating to the administration and powers of the Canadian River Municipal Water Authority.
(Committee Substitute)

SB 1871, Relating to the compilation and reporting by the Texas Education Agency of certain student data disaggregated by the instruction method used.
(Committee Substitute)

SB 1877, Relating to the determination of compensation under the Teacher Retirement System of Texas.

SB 1912, Relating to certification of educators from outside the state.
(Committee Substitute)

SB 1942, Relating to the creation of the Gastonia-Scurry Special Utility District; providing authority to impose taxes and issue bonds; granting the power of eminent domain.
(Amended)

SB 1946, Relating to the creation of the Hardin Store Road Municipal Utility District No. 1 of Montgomery County; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

SB 1954, Relating to the creation of the Waller County Municipal Utility District No. 2; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

SB 1955, Relating to the creation of the Waller County Municipal Utility District No. 3; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

SB 1969, Relating to the creation of the Las Damas Management District; providing authority to levy an assessment, impose a tax, and issue bonds.

SB 1972, Relating to the election by voters regarding the maximum tax rate of a hospital district and to the employment of certain physicians and health care providers.
(Amended)

SB 1974, Relating to the powers and duties of the Harris County Municipal Utility District No. 473; providing authority to impose a tax and issue bonds.

SB 1976, Relating to the composition of the McLennan County Juvenile Board.

SB 1984, Relating to the creation of the Spectrum Management District; providing authority to levy an assessment, impose a tax, and issue bonds.
(Committee Substitute)

SB 1985, Relating to the creation of the McLennan County Groundwater Conservation District; providing authority to impose a tax and issue bonds.
(Committee Substitute)

SB 1986, Relating to the powers and duties of the Cinco Southwest Municipal Utility District No. 1; providing authority to impose a tax and issue bonds.

SB 1987, Relating to the powers and duties of the Cinco Southwest Municipal Utility District No. 2; providing authority to impose a tax and issue bonds.

SB 1988, Relating to the powers and duties of the Cinco Southwest Municipal Utility District No. 3; providing authority to impose a tax and issue bonds.

SB 1989, Relating to the powers and duties of the Cinco Southwest Municipal Utility District No. 4; providing authority to impose a tax and issue bonds.

SB 1990, Relating to the creation of the Calhoun County Municipal Utility District No. 1; granting the power of eminent domain.

SB 1991, Relating to the powers and duties of the Fort Bend County Municipal Utility District No. 58; providing authority to impose a tax and issue bonds.

SB 1997, Relating to the creation of the Galveston County Municipal Utility District No. 65; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

SB 2000, Relating to a program to reduce the emissions of nitrogen oxides from certain stationary compressor engines.
(Amended)

SB 2002, Relating to the creation of the Rolling V Ranch Water Control and Improvement District No. 1 of Wise County; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

SB 2014, Relating to the creation of the Magnolia Woods Municipal Utility District No. 1 of Montgomery, Waller, and Grimes Counties; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

SB 2020, Relating to the creation of the Randall County Municipal Utility District No. 1; providing authority to impose a tax and issue bonds; granting the power of eminent domain.
(Committee Substitute)

SB 2029, Relating to the election of directors of the San Patricio County Groundwater Conservation District and to the validation of certain acts of the district.

SB 2033, Relating to the issuance of general obligation bonds by the Texas Public Finance Authority for certain maintenance, improvement, repair, and construction projects and for the purchase of needed equipment.

SB 2037, Relating to the ability of the attorney general to offer assistance to a prosecuting attorney.

SB 2042, Relating to the authority of the New Sweden Municipal Utility District No. 1 and municipalities with extraterritorial jurisdiction in the district to enter into annexation and tax allocation agreements.

SB 2043, Relating to the authority of the New Sweden Municipal Utility District No. 2 and municipalities with extraterritorial jurisdiction in the district to enter into annexation and tax allocation agreements.

SB 2054, Relating to the powers and duties of the Parker Creek Municipal Utility District of Rockwall County; providing authority to issue bonds.

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

**COMMITTEE SUBSTITUTE
HOUSE BILL 1503 ON SECOND READING**

On motion of Senator Hinojosa and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 1503** at this time on its second reading:

CSHB 1503, Relating to allowing certain assistant district and county attorneys to carry weapons.

The bill was read second time.

Senator Seliger offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 1503** (Senate committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS accordingly:

SECTION _____. Subdivision (4), Section 411.171, Government Code, is amended to read as follows:

(4) "Convicted" means an adjudication of guilt or, except as provided in Section 411.1711, an order of deferred adjudication entered against a person by a court of competent jurisdiction whether or not the imposition of the sentence is subsequently probated and the person is discharged from community supervision. The term does not include an adjudication of guilt or an order of deferred adjudication that has been subsequently:

(A) expunged; ~~or~~

(B) pardoned under the authority of a state or federal official; or

(C) otherwise vacated, set aside, annulled, invalidated, discharged,

voided, or sealed under any state or federal law.

SECTION _____. Section 411.172, Government Code, is amended by amending Subsection (b) and adding Subsection (b-1) to read as follows:

(b) For the purposes of this section, an offense under the laws of this state, another state, or the United States is:

(1) except as provided by Subsection (b-1), a felony if [the offense], at the time it is committed, the offense [of a person's application for a license to carry a concealed handgun]:

(A) is designated by a law of this state as a felony;

(B) contains all the elements of an offense designated by a law of this state as a felony; or

(C) is punishable by confinement for one year or more in a penitentiary;

and

(2) a Class A misdemeanor if the offense is not a felony and confinement in a jail other than a state jail felony facility is affixed as a possible punishment.

(b-1) An offense is not considered a felony for purposes of Subsection (b)(1) if, at the time of a person's application for a license to carry a concealed handgun, the offense:

(1) is designated by a law of this state as a misdemeanor; or

(2) does not contain all the elements of any offense designated by a law of this state as a felony.

SECTION _____. Section 46.04, Penal Code, is amended by amending Subsection (d) and adding Subsections (f) and (g) to read as follows:

(d) In this section:

(1) "Convicted" has the meaning assigned by Section 411.171, Government Code.

(2) "Family," ["family, "] "household," and "member of a household" have the meanings assigned by Chapter 71, Family Code.

(f) For the purposes of this section, an offense under the laws of this state, another state, or the United States is, except as provided by Subsection (g), a felony if, at the time it is committed, the offense:

(1) is designated by a law of this state as a felony;

(2) contains all the elements of an offense designated by a law of this state as a felony; or

(3) is punishable by confinement for one year or more in a penitentiary.

(g) An offense is not considered a felony for purposes of Subsection (f) if, at the time the person possesses a firearm, the offense:

(1) is designated by a law of this state as a misdemeanor; or

(2) does not contain all the elements of any offense designated by a law of this state as a felony.

The amendment to **CSHB 1503** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

On motion of Senator Hinojosa and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSHB 1503 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1503 ON THIRD READING**

Senator Hinojosa moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1503** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1526 ON SECOND READING**

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

CSHB 1526, Relating to incentives for and the use of supplemental leak detection technologies for air contaminants.

The bill was read second time.

Senator Seliger offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 1526** (Senate committee printing) in SECTION 1 of the bill, on page 2, line 11, by striking "The" and inserting the following:
To the extent consistent with federal requirements, the

The amendment to **CSHB 1526** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

Senator Seliger offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSHB 1526** (Senate committee report) as follows:

- (1) On page 1, line 10, strike "supplemental" and insert "alternative"
- (2) On page 1, line 17, strike "SUPPLEMENTAL" and insert "ALTERNATIVE"
- (3) On page 1, line 18, strike "supplemental" and insert "alternative"
- (4) On page 1, line 28, strike "supplemental" and insert "alternative"
- (5) On page 1, line 38, strike "supplemental" and insert "alternative"
- (6) On page 1, line 41, strike "supplemental" and insert "alternative"
- (7) On page 1, line 45, strike "supplemental" and insert "alternative"
- (8) On page 1, line 47, strike "supplemental" and insert "alternative"
- (9) On page 1, line 51, strike "supplemental" and insert "alternative"
- (10) On page 1, line 54, strike "supplemental" and insert "alternative"
- (11) On page 1, line 61, strike "supplemental" and insert "alternative"
- (12) On page 2, line 11, strike "The" and insert "To the extent consistent with federal requirements, the"
- (13) On page 2, line 17, strike "supplemental" and insert "alternative"

(14) On page 2, line 34, strike "supplemental" and insert "alternative"

The amendment to **CSHB 1526** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2.

On motion of Senator Seliger and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSHB 1526 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

COMMITTEE SUBSTITUTE HOUSE BILL 1526 ON THIRD READING

Senator Seliger moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1526** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

STATEMENT OF LEGISLATIVE INTENT

Senator Averitt submitted the following statement of legislative intent for **CSHB 1526**:

Senator Averitt: Is it the intent of the sponsor that subsection (d) of SECTION 1 of this bill only applies to requirements under the TCEQ's current "Leak Detection and Repair" (LDAR) program?

Senator Seliger: Yes.

COMMITTEE SUBSTITUTE HOUSE BILL 4029 ON SECOND READING

On motion of Senator Hegar and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 4029** at this time on its second reading:

CSHB 4029, Relating to the creation of the Lavaca County Groundwater Conservation District; providing authority to impose a tax.

The bill was read second time.

Senator Hegar offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 4029** (Senate committee printing) by striking Sec. 8822.005 (page 1, line 43 through page 1, line 56) and renumbering subsequent Sections accordingly.

The amendment to **CSHB 4029** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Nays: Averitt.

On motion of Senator Hegar and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSHB 4029 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

**COMMITTEE SUBSTITUTE
HOUSE BILL 4029 ON THIRD READING**

Senator Hegar moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 4029** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 539 ON SECOND READING

Senator West moved to suspend the regular order of business to take up for consideration **HB 539** at this time on its second reading:

HB 539, Relating to the regulation of fireworks and fireworks displays.

The motion prevailed.

Senators Jackson, Patrick, and Zaffirini asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time.

(Senator Carona in Chair)

Senator West offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 539** (Senate committee printing) as follows:

(1) On page 1, lines 38-48, strike SECTION 3, and renumber subsequent SECTIONS accordingly; and

(2) On page 2, lines 66-68, strike the following:

"April 25 of each year for the Cinco de Mayo fireworks season;

(2)".

The amendment to **HB 539** was read.

On motion of Senator Lucio, Floor Amendment No. 1 was tabled by the following vote: Yeas 28, Nays 1.

Nays: West.

Absent: Fraser, Hinojosa.

Senator West offered the following amendment to the bill:

Floor Amendment No. 2

Amend **HB 539** (Senate committee printing), on page 1, lines 14-21, by striking proposed subsection (d) and substituting new subsection (d), to read as follows:

"(d) In addition to the items described by Subsection (b), pop rockets with a propellant casing length of less than five inches, an exterior diameter of less than three-fourths of an inch, and an overall total rocket length of less than 26 inches, are not permissible fireworks."

The amendment to **HB 539** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2.

Senator Wentworth offered the following amendment to the bill:

Floor Amendment No. 3

Amend **HB 539** (Senate committee report), in SECTION 1 of the bill, by striking added Subdivision (2), Subsection (d), Section 2154.003, Occupations Code (page 1, lines 20 and 21), and substituting the following:

(2) items classified under 49 C.F.R. Section 173.100(r)(2) (10-1-86 edition) as "skyrockets with sticks" and "missiles with fins."

The amendment to **HB 539** was read.

On motion of Senator West, Floor Amendment No. 3 was tabled by the following vote: Yeas 18, Nays 9.

Yeas: Carona, Deuell, Duncan, Eltife, Estes, Harris, Hegar, Hinojosa, Jackson, Lucio, Nichols, Ogden, Seliger, Uresti, Watson, West, Whitmire, Williams.

Nays: Averitt, Brimer, Ellis, Janek, Nelson, Patrick, Shapleigh, Wentworth, Zaffirini.

Absent: Fraser, Gallegos, Shapiro, Van de Putte.

Senator Wentworth offered the following amendment to the bill:

Floor Amendment No. 4

Amend **HB 539** (Senate committee report), in SECTION 3 of the bill, in added Subdivision (3), Subsection (g), Section 2154.202, Occupations Code (page 1, lines 46 through 48), by striking "if the fireworks are sold at a location that is not more than 100 miles from the Texas-Mexico border".

The amendment to **HB 539** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 4 except as follows:

Nays: Patrick.

On motion of Senator West and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 539 as amended was passed to third reading by a viva voce vote.

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

Nays: Jackson, Patrick, Zaffirini.

HOUSE BILL 539 ON THIRD READING

Senator West moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 539** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 3.

Yeas: Averitt, Brimer, Carona, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hegar, Hinojosa, Janek, Lucio, Nelson, Nichols, Ogden, Seliger, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams.

Nays: Jackson, Patrick, Zaffirini.

The bill was read third time and was passed by the following vote: Yeas 28, Nays 3. (Same as previous roll call)

(Senator Brimer in Chair)

HOUSE BILL 3107 ON SECOND READING

On motion of Senator Ogden and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 3107** at this time on its second reading:

HB 3107, Relating to the creation and re-creation of funds and accounts in the state treasury, the dedication and rededication of revenue, and the exemption of unappropriated money from use for general governmental purposes.

The bill was read second time.

Senator Ogden offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 3107** (Senate committee printing) by striking all below the enacting clause and substituting the following:

SECTION 1. DEFINITION. In any provision of this Act that does not amend current law, "state agency" means an office, institution, or other agency that is in the executive branch of state government, has authority that is not limited to a geographical portion of the state, and was created by the constitution or a statute of this state. The term does not include an institution of higher education as defined by Section 61.003, Education Code.

SECTION 2. ABOLITION OF FUNDS, ACCOUNTS, AND DEDICATIONS. Except as otherwise specifically provided by this Act, all funds and accounts created or re-created in the state treasury by an Act of the 80th Legislature, Regular Session, 2007, that becomes law and all dedications or rededications of revenue in the state treasury or otherwise collected by a state agency for a particular purpose by an Act of

the 80th Legislature, Regular Session, 2007, that becomes law are abolished on the later of August 27, 2007, or the date the Act creating or re-creating the fund or account or dedicating or rededicating revenue takes effect.

SECTION 3. PREVIOUSLY EXEMPT DEDICATIONS, FUNDS, AND ACCOUNTS. Section 2 of this Act does not apply to:

(1) statutory dedications, funds, and accounts that were enacted before the 80th Legislature convened to comply with requirements of state constitutional or federal law;

(2) dedications, funds, or accounts that remained exempt from former Section 403.094(h), Government Code, at the time dedications, accounts, and funds were abolished under that provision;

(3) increases in fees or in other revenue dedicated as described by this section; or

(4) increases in fees or in other revenue required to be deposited in a fund or account described by this section.

SECTION 4. ACCOUNTS IN GENERAL REVENUE FUND. Effective on the later of August 27, 2007, or the date the Act creating or re-creating the account takes effect, the following accounts and the revenue deposited to the credit of the accounts are exempt from Section 2 of this Act and are created in the general revenue fund, if created or re-created by an Act of the 80th Legislature, Regular Session, 2007, that becomes law:

(1) the transportation reinvestment fund created by Senate Bill No. 1266, House Bill No. 3722, or similar legislation;

(2) the cancer prevention and research fund created by House Bill No. 14 or similar legislation; and

(3) the nursing home quality assurance fee account created by House Bill No. 3778 or similar legislation.

SECTION 5. FUNDS TO BECOME ACCOUNTS. Effective on the later of August 27, 2007, or the date the Act creating or re-creating the fund takes effect, a fund in the state treasury or fund otherwise with the comptroller, if listed in this section, is re-created as an account in the general revenue fund, to the extent allowed by the Texas Constitution, and the account and the revenue deposited to the credit of the account are exempt from Section 2 of this Act, if created or re-created by an Act of, or constitutional amendment proposed by, the 80th Legislature, Regular Session, 2007, that becomes law or is approved by the voters, as applicable.

SECTION 6. REVENUE DEDICATION. Effective on the later of August 27, 2007, or the date the Act dedicating or rededicating the revenue takes effect, the following dedications or rededications of revenue collected by a state agency for a particular purpose are exempt from Section 2 of this Act, if dedicated or rededicated by an Act of the 80th Legislature, Regular Session, 2007, that becomes law:

(1) all dedications or rededications to the state highway fund;

(2) all dedications or rededications of revenue collected by the Parks and Wildlife Department;

(3) all dedications or rededications of revenue to the Texas Department of Insurance operating account;

(4) all dedications or rededications of revenue made by House Bill Nos. 3168 and 1673 or similar legislation; and

(5) all dedications or rededications to General Revenue Account No. 19—Vital Statistics that are made by Senate Bill No. 47, House Bill No. 1377, or similar legislation.

SECTION 7. FEDERAL FUNDS. Section 2 of this Act does not apply to funds created pursuant to an Act of the 80th Legislature, Regular Session, 2007, for which separate accounting is required by federal law, except that the funds shall be deposited in accounts in the general revenue fund unless otherwise required by federal law.

SECTION 8. TRUST FUNDS. (a) Section 2 of this Act does not apply to trust funds or dedicated revenue deposited to trust funds created under an Act of the 80th Legislature, Regular Session, 2007, except that the trust funds shall be held in the state treasury, with the comptroller in trust, or outside the state treasury with the comptroller's approval.

(b) Notwithstanding Subsection (a) of this section, the following trust funds if created under an Act of the 80th Legislature, Regular Session, 2007, that becomes law shall be held outside the state treasury, regardless of the comptroller's approval:

(1) the Texas tomorrow fund II prepaid tuition unit undergraduate education program fund created by House Bill No. 3900 or similar legislation; and

(2) the Texas health opportunity pool trust fund created by Senate Bill No. 10 or similar legislation.

SECTION 9. BOND FUNDS. Section 2 of this Act does not apply to bond funds and pledged funds created or affected by an Act of the 80th Legislature, Regular Session, 2007, except that the funds shall be held in the state treasury, with the comptroller in trust, or outside the state treasury with the comptroller's approval.

SECTION 10. CONSTITUTIONAL FUNDS. Section 2 of this Act does not apply to funds or accounts that would be created or re-created by the Texas Constitution or revenue that would be dedicated or rededicated by the Texas Constitution under a constitutional amendment proposed by the 80th Legislature, Regular Session, 2007, or to dedicated revenue deposited to funds or accounts that would be so created or re-created, if the constitutional amendment is approved by the voters.

SECTION 11. SEPARATE FUNDS IN THE TREASURY. Effective September 1, 2007, if the fund is listed in this section, a fund in the state treasury and the revenue deposited to the credit of the fund is exempt from Section 2 of this Act and is created as a separate fund in the state treasury, if created by an Act of the 80th Legislature, Regular Session, 2007, that becomes law.

SECTION 12. AMENDMENT OF SECTION 403.095, GOVERNMENT CODE. Effective September 1, 2007, Sections 403.095(b), (d), and (e), Government Code, are amended to read as follows:

(b) Notwithstanding any law dedicating or setting aside revenue for a particular purpose or entity, dedicated revenues that, on August 31, ~~2009~~ [2007], are estimated to exceed the amount appropriated by the General Appropriations Act or other laws enacted by the ~~80th~~ [79th] Legislature are available for general governmental purposes and are considered available for the purpose of certification under Section 403.121.

(d) Following certification of the General Appropriations Act and other appropriations measures enacted by the 80th [~~79th~~] Legislature, the comptroller shall reduce each dedicated account as directed by the legislature by an amount that may not exceed the amount by which estimated revenues and unobligated balances exceed appropriations. The reductions may be made in the amounts and at the times necessary for cash flow considerations to allow all the dedicated accounts to maintain adequate cash balances to transact routine business. The legislature may authorize, in the General Appropriations Act, the temporary delay of the excess balance reduction required under this subsection. This subsection does not apply to revenues or balances in:

(1) funds outside the treasury;

(2) trust funds, which for purposes of this section include funds that may or are required to be used in whole or in part for the acquisition, development, construction, or maintenance of state and local government infrastructures, recreational facilities, or natural resource conservation facilities;

(3) funds created by the constitution or a court; or

(4) funds for which separate accounting is required by federal law.

(e) This section expires on September 1, 2009 [~~2007~~].

SECTION 13. EFFECT OF ACT. (a) This Act prevails over any other Act of the 80th Legislature, Regular Session, 2007, regardless of the relative dates of enactment, that purports to create or re-create a special fund or account in the state treasury or to dedicate or rededicate revenue to a particular purpose, including any fund, account, or revenue dedication abolished under former Section 403.094, Government Code.

(b) Revenues that, under the terms of another Act of the 80th Legislature, Regular Session, 2007, would be deposited to the credit of a special account or fund shall be deposited to the credit of the undedicated portion of the general revenue fund unless the fund, account, or dedication is exempted under this Act.

SECTION 14. EFFECTIVE DATE. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect on the 91st day after the last day of the legislative session.

The amendment to **HB 3107** was read.

Senator Ogden moved to postpone further consideration of the bill to a time certain of 8:00 p.m. today.

The motion prevailed.

Question — Shall Floor Amendment No. 1 to **HB 3107** be adopted?

MOTION TO PLACE HOUSE BILL 160 ON SECOND READING

Senator Wentworth moved to suspend the regular order of business to take up for consideration **HB 160** at this time on its second reading:

HB 160, Relating to rail relocation and improvement in the state.

Senator Wentworth withdrew the motion to suspend the regular order of business.

HOUSE BILL 2383 ON SECOND READING

On motion of Senator Lucio and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2383** at this time on its second reading:

HB 2383, Relating to the provision of certain subsidies and scholarships to particular public school students or graduates.

The bill was read second time.

Senator Lucio offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **HB 2383** on page 2, line 5 through page 3, line 6 of the House engrossed version by striking SECTION 2 in its entirety.

Then, renumber the remaining sections of the bill accordingly.

The amendment to **HB 2383** was read.

Senator Lucio withdrew Committee Amendment No. 1.

Senator Shapleigh offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 2383** (Senate committee printing) immediately following SECTION 1 of the bill (page 1, between lines 38 and 39), by inserting the following appropriately numbered SECTION and renumbering the subsequent SECTIONS accordingly:

SECTION __. Section 42.152, Education Code, is amended by adding Subsections (s), (s-1), (s-2), and (s-3) to read as follows:

(s) In addition to the allotment provided under Subsection (a), a school district is entitled to an annual allotment equal to \$650:

(1) for each student in average daily attendance who has a parent or guardian who is serving on active duty in a combat zone as a member of the armed forces of the United States; and

(2) for each student in average daily attendance who:

(A) has a parent or guardian serving on active duty as a member of the armed forces of the United States; and

(B) has transferred to a campus in the district during the school year as a result of a change in residence because of an action taken under the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. Section 2687).

(s-1) Notwithstanding any other provision of this section, a school district may use funds allotted to the district under Subsection (s) only to provide supplemental programs and services described by Subsection (c) for students described by Subsection (s) who are enrolled in the district.

(s-2) The amount appropriated for allotments under Subsection (s) may not exceed \$9.9 million in a school year. If the total amount of allotments to which districts are entitled under Subsection (s) for a school year exceeds the amount appropriated for allotments under that subsection, the commissioner shall reduce each district's allotment under that subsection proportionately.

(s-3) Subsections (s), (s-1), (s-2), and this subsection expire September 1, 2012.

The amendment to **HB 2383** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

Senator Hegar offered the following amendment to the bill:

Floor Amendment No. 2

Amend **HB 2383** in SECTION 2 of the bill, in Paragraph (B), Subdivision (1), Subsection (a), of amended Section 56.203, Education Code (Senate committee printing, page 1, line 50), by striking "45 consecutive months" and substituting "46 [~~45~~] consecutive months".

The amendment to **HB 2383** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2.

Senator Shapiro offered the following amendment to the bill:

Floor Amendment No. 3

Amend **HB 2383** (Senate committee report) as follows:

(1) In SECTION 2 of the bill, in amended Subdivision (2), Subsection (a), Section 56.203, Education Code (page 1, line 62), strike "~~;~~ and" and substitute "; and".

(2) In SECTION 2 of the bill, in amended Subdivision (3), Subsection (a), Section 56.203, Education Code (page 2, line 1), strike "~~[(3) be a Texas resident as defined by coordinating board rule].~~" and substitute "(3) be a citizen of the United States or otherwise lawfully authorized to be present in the United States [~~Texas resident as defined by coordinating board rule].~~"

SHAPIRO
LUCIO

The amendment to **HB 2383** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 3.

On motion of Senator Lucio and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 2383 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 2383 ON THIRD READING

Senator Lucio moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2383** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1168 ON SECOND READING**

Senator Shapleigh moved to suspend the regular order of business to take up for consideration **CSHB 1168** at this time on its second reading:

CSHB 1168, Relating to licensing and regulation of certain facilities providing personal care to elderly or disabled persons; providing penalties.

The motion prevailed.

Senator Patrick asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time.

Senator Shapleigh offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 1168** (Senate committee version) by striking all the text below the enacting clause and substituting the following:

SECTION 1. DEFINITIONS. In this Act:

- (1) "Department" means the Department of Aging and Disability Services.
- (2) "Disabled person" has the meaning assigned by Section 48.002, Human Resources Code.
- (3) "Elderly person" has the meaning assigned by Section 48.002, Human Resources Code.
- (4) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.
- (5) "Boarding house" means an establishment that:
 - (A) provides services, including community meals, light housework, meal preparation, transportation, grocery shopping, money management, or laundry services to three or more elderly persons or disabled persons residing in the boarding house who are unrelated to the owner or proprietor of the establishment;
 - (B) is not:
 - (i) required to be licensed under Chapter 142, 242, 246, 247, or 252, Health and Safety Code; or
 - (ii) exempt from licensing under Section 142.003(a)(19) or 247.004(4), Health and Safety Code; and
 - (C) is not a:
 - (i) child-care facility as defined by Section 42.002, Human Resources Code;

(ii) family violence center as defined by Section 51.002, Human Resources Code;

(iii) hotel as defined by Section 156.001, Tax Code;

(iv) retirement community;

(v) monastery or convent; or

(vi) sorority or fraternity house or other dormitory affiliated with an institution of higher education.

SECTION 2. PILOT PROGRAM. (a) Subject to the appropriation of funds for the express purpose of implementing the pilot program described by this section, the executive commissioner by rule shall develop and implement a pilot program in a county or municipality described by Subsection (c) of this section in which the department:

(1) requires boarding houses to be licensed;

(2) inspects boarding houses; and

(3) enforces rules and regulations for licensed boarding houses.

(b) In implementing the pilot program, the executive commissioner shall adopt rules and regulations for boarding houses that include:

(1) minimum standards to ensure the health and safety of residents of boarding houses, including fire safety requirements;

(2) required disclosures by boarding houses;

(3) reporting requirements regarding resident deaths, injuries, or accidents;

and

(4) administrative penalties for a boarding house of not less than \$100 or more than \$1,000 for each violation by a boarding house of a rule adopted or order issued under the pilot program.

(c) Subject to the appropriation of funds for the express purpose of implementing the pilot program described by this section, not later than August 1, 2008, the executive commissioner shall implement the pilot program in a county or municipality that has adopted an order or ordinance regulating the operation of boarding houses.

SECTION 3. REPORT. Not later than January 1, 2009, the Health and Human Services Commission shall submit a report to the governor, the lieutenant governor, the speaker of the house of representatives, and the presiding officer of each house and senate standing committee having jurisdiction over adult protective services. The report must include:

(1) if the pilot program has been developed and implemented:

(A) the number of:

(i) boarding houses licensed through the pilot program;

(ii) violations by boarding houses of rules adopted under the pilot program; and

(iii) investigations of boarding houses licensed under the pilot program related to alleged abuse, neglect, or exploitation of a resident;

(B) a description of any penalties against a boarding house licensed under the pilot program resulting from a department investigation; and

(C) a recommendation regarding the advisability of expanding the pilot program statewide; or

(2) if the pilot program has not been developed and implemented, a study and recommendations regarding the most effective method for regulating boarding houses, including recommendations on whether clarifying the authority of and granting additional authority to counties and municipalities to establish health and safety standards for boarding houses is recommended.

SECTION 4. EXPIRATION. This Act expires September 1, 2011.

SECTION 5. This Act takes effect September 1, 2007.

The amendment to **CSHB 1168** was read.

Senator Uresti offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 2

Amend Floor Amendment No. 1 to **CSHB 1168** by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 247.045, Health and Safety Code, is amended by amending Subsections (d) and (e) and adding Subsections (h) and (i) to read as follows:

(d) The attorney general may institute and conduct a suit to collect a penalty and fees under this section at the request of the department. If the attorney general fails to notify the department [take action] within 30 days of referral from the department that the attorney general will accept the case, the department shall refer the case to the local district attorney, county attorney, or city attorney. The district attorney, county attorney, or city attorney shall file suit in a district court to collect and retain the penalty.

(e) Investigation and attorney's fees may not be assessed or collected by or on behalf of the department or other state agency unless [the department or other state agency assesses and collects] a penalty described under this chapter is assessed.

(h) If a person who is liable under this section fails to pay any amount the person is obligated to pay under this section, the state may seek satisfaction from any owner, other controlling person, or affiliate of the person found liable. The owner, other controlling person, or affiliate may be found liable in the same suit or in another suit on a showing by the state that the amount to be paid has not been paid or otherwise legally discharged. The department by rule may establish a method for satisfying an obligation imposed under this section from an insurance policy, letter of credit, or other contingency fund.

(i) In this section, "affiliate" means:

(1) with respect to a partnership other than a limited partnership, each partner of the partnership;

(2) with respect to a corporation:

(A) an officer;

(B) a director;

(C) a stockholder who owns, holds, or has the power to vote at least 10 percent of any class of securities issued by the corporation, regardless of whether the power is of record or beneficial; and

(D) a controlling individual;

(3) with respect to an individual:

(A) each partnership and each partner in the partnership in which the individual or any other affiliate of the individual is a partner; and

(B) each corporation or other business entity in which the individual or another affiliate of the individual is:

(i) an officer;

(ii) a director;

(iii) a stockholder who owns, holds, or has the power to vote at least 10 percent of any class of securities issued by the corporation, regardless of whether the power is of record or beneficial; and

(iv) a controlling individual;

(4) with respect to a limited partnership:

(A) a general partner; and

(B) a limited partner who is a controlling individual;

(5) with respect to a limited liability company:

(A) an owner who is a manager as described by the Texas Limited Liability Company Act (Article 1528n, Vernon's Texas Civil Statutes); and

(B) each owner who is a controlling individual; and

(6) with respect to any other business entity, a controlling individual.

SECTION ____. The change in law made to Section 247.045, Health and Safety Code, by this Act applies only to a violation that occurs on or after the effective date of this Act. A violation occurs before the effective date of this Act if any element of the violation occurs before that date. A violation that occurs before the effective date of this Act is covered by the law in effect when the violation occurred, and the former law is continued in effect for that purpose.

SECTION ____. The change in law made to Section 247.045, Health and Safety Code, by this Act takes effect September 1, 2007.

The amendment to Floor Amendment No. 1 to **CSHB 1168** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2.

Senator Ogden offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 3

Amend Floor Amendment No. 1 to **CSHB 1168** by adding appropriately numbered SECTIONS to the bill to read as follows and renumbering remaining SECTIONS:

SECTION ____. The heading to Chapter 2005, Government Code, is amended to read as follows:

CHAPTER 2005. MISCELLANEOUS PROVISIONS RELATING TO STATE LICENSES AND PERMITS [PERMIT PROCESSING]

SECTION ____. Sections 2005.001 through 2005.007, Government Code, are designated as Subchapter A, Chapter 2005, Government Code, and a subchapter heading is added to read as follows:

SUBCHAPTER A. PERMIT PROCESSING

SECTION __. Chapter 2005, Government Code, is amended by adding Subchapter B to read as follows:

SUBCHAPTER B. DENIAL, SUSPENSION, OR REVOCATION FOR FALSE STATEMENT, MISREPRESENTATION, OR REFUSAL TO PROVIDE INFORMATION

Sec. 2005.051. DEFINITIONS. In this subchapter:

(1) "License" means a license, certificate, registration, permit, or other authorization:

(A) that is issued by a licensing authority;

(B) that is subject before expiration to suspension, revocation, forfeiture, or termination by the issuing licensing authority; and

(C) that a person must obtain to:

(i) practice or engage in a particular business, occupation, or profession; or

(ii) engage in any other regulated activity, including hunting, fishing, or other recreational activity for which a license or permit is required.

(2) "Licensing authority" means an agency of the executive, legislative, or judicial branch of state government that issues a license.

Sec. 2005.052. DENIAL, SUSPENSION, OR REVOCATION FOR FALSE STATEMENT, MISREPRESENTATION, OR REFUSAL TO PROVIDE INFORMATION. (a) A licensing authority may deny a person's application for a license or suspend or revoke a person's license if the licensing authority determines, after notice and hearing, that the person knowingly:

(1) made a false statement in connection with applying for or renewing the license;

(2) made a material misrepresentation to the licensing authority in connection with applying for or renewing the license;

(3) refused to provide information requested by the licensing authority; or

(4) failed to provide all of the person's criminal history information in response to the licensing authority's request for the information.

(b) A denial, suspension, or revocation by a licensing authority under this section is governed by the administrative procedures that apply to other disciplinary actions taken by the licensing authority.

Sec. 2005.053. CRIMINAL PROSECUTION. A person who knowingly makes a false statement in connection with applying for or renewing a license may be subject to criminal prosecution under Section 37.10, Penal Code.

SECTION __. Section 2005.001, Government Code, is amended to read as follows:

Sec. 2005.001. DEFINITIONS. In this subchapter [~~chapter~~]:

(1) "Permit" means an authorization by a license, certificate, registration, or other form that is required by law or state agency rules to engage in a particular business.

(2) "State agency" means a department, board, bureau, commission, division, office, council, or other agency of the state.

SECTION __. Section 2005.002, Government Code, is amended to read as follows:

Sec. 2005.002. EXCEPTIONS. This subchapter [~~chapter~~] does not apply to a permit:

- (1) for which an agency's median time during the preceding calendar year for processing a permit application from receipt of the initial application to the final permit decision did not exceed seven days;
- (2) issued in connection with any form of gaming or gambling; or
- (3) issued under the Alcoholic Beverage Code.

SECTION __. Section 2005.005, Government Code, is amended to read as follows:

Sec. 2005.005. DUTY OF HEAD OF AGENCY. The head of each state agency shall ensure that the agency complies with this subchapter [~~chapter~~].

SECTION __. Subsection (a), Section 2005.006, Government Code, is amended to read as follows:

(a) A state agency subject to this subchapter [~~chapter~~] shall establish by rule a complaint procedure through which a permit applicant can:

- (1) complain directly to the chief administrator of the agency if the agency exceeds the established period for processing permits; and
- (2) request a timely resolution of any dispute arising from the delay.

SECTION __. Subsection (b), Section 2005.007, Government Code, is amended to read as follows:

(b) The report must include:

- (1) a statement of the periods the agency has adopted under this subchapter [~~chapter~~] for processing each type of permit it issues, specifying any changes the agency made since the last report;
- (2) a statement of the minimum, maximum, and median times for processing each type of permit during the period since the last report from the date the agency receives the initial permit application to the final permit decision;
- (3) a description of the complaint procedure required by Section 2005.006;
- (4) a summary of the number and disposition of complaints received by the agency under Section 2005.006 since the last report; and
- (5) a description of specific actions taken by the agency since the last report to simplify and improve its permit application, processing, and paperwork requirements.

SECTION 9. Subchapter B, Chapter 2005, Government Code, as added by this Act, applies only to a statement, misrepresentation, or refusal made, in connection with applying for or renewing a license, on or after the effective date of this Act.

The amendment to Floor Amendment No. 1 to **CSHB 1168** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 3.

Question recurring on the adoption of Floor Amendment No. 1 to **CSHB 1168**, the amendment as amended was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 as amended.

On motion of Senator Shapleigh and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSHB 1168 as amended was passed to third reading by a viva voce vote.

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

Nays: Patrick.

COMMITTEE SUBSTITUTE HOUSE BILL 1168 ON THIRD READING

Senator Shapleigh moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1168** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Patrick.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 1. (Same as previous roll call)

HOUSE BILL 735 ON SECOND READING

On motion of Senator Williams and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 735** at this time on its second reading:

HB 735, Relating to the discontinuation of the Telecommunications Infrastructure Fund.

The bill was read second time.

Senator Williams offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 735** (Senate committee printing) by striking SECTIONS 14 and 15 (page 5, lines 35 through 66) and substituting:

SECTION 14. (a) The assessment imposed under Section 57.048, Utilities Code, for the calendar quarter ending in September 2008 is due on the last day of October 2008. The assessment imposed under that section may not be imposed after the end of the calendar quarter ending in September 2008.

(b) Section 57.048, Utilities Code, is continued in effect for the collection of the assessment due and for civil and criminal enforcement of the liability for that assessment.

(c) A telecommunications utility or commercial mobile service provider subject to Section 57.048, Utilities Code, may recover from the utility's customers through a monthly billing process the amount of the assessment imposed under that section as provided by Subsection (f) of that section, and the former law is continued in effect for that purpose.

SECTION 15. This Act takes effect September 1, 2008.

The amendment to **HB 735** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

On motion of Senator Williams and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 735 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 735 ON THIRD READING

Senator Williams moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 735** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

COMMITTEE SUBSTITUTE HOUSE BILL 3694 ON SECOND READING

Senator Janek moved to suspend the regular order of business to take up for consideration **CSHB 3694** at this time on its second reading:

CSHB 3694, Relating to the enterprise zone program.

The motion prevailed.

Senator Patrick asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time.

Senator Janek offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 3694** (Senate committee printing) as follows:

(1) In the recital to SECTION 1 of the bill (page 1, line 13), strike "Sections 2303.003(5-a), (7), and (8)" and substitute "Sections 2303.003(5-a) and (7)".

(2) In SECTION 1 of the bill, in amended Section 2303.003, Government Code (page 1, lines 22 through 30), strike Subdivision (8).

The amendment to **CSHB 3694** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

On motion of Senator Janek and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSHB 3694 as amended was passed to third reading by a viva voce vote.

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

Nays: Patrick.

**COMMITTEE SUBSTITUTE
HOUSE BILL 3694 ON THIRD READING**

Senator Janek moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 3694** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Patrick.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 1. (Same as previous roll call)

HOUSE BILL 3851 ON SECOND READING

On motion of Senator Shapiro and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 3851** at this time on its second reading:

HB 3851, Relating to the admission of high school graduates and undergraduate transfer students to certain institutions of higher education, the computation of a student's high school grade point average for purposes of determining eligibility for admission, and policies to promote the admission of undergraduate transfer students.

The bill was read second time.

Senator Shapiro offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **HB 3851** (House engrossment) in SECTION 2 of the bill, in added Subsection (a), Section 51.807, Education Code, by striking Subdivision (1)(B) (page 2, lines 5 through 8), and substituting the following:

(B) assign additional weight for each honors course, advanced placement course, international baccalaureate course, or dual credit course completed by the student as the board considers appropriate, taking into consideration the academic rigor of each course completed by the student; and

The amendment to **HB 3851** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Committee Amendment No. 1.

Senator Shapiro offered the following committee amendment to the bill:

Committee Amendment No. 2

Amend **HB 3851** (House engrossed version) beginning on page 2, line 23 by striking SECTION 3 entirely and substituting the following new SECTION 3:

SECTION 3. Section 51.4032, Education Code, as added by Chapter 694, Acts of the 79th Legislature, Regular Session, 2005, is amended to read as follows:

Sec. 51.4032. ANNUAL REPORT OF PARTICIPATION IN HIGHER EDUCATION. Not later than December 1 [~~July 31~~] of each year and in the form prescribed by the coordinating board, each general academic teaching institution and medical and dental unit as defined in Section 61.003 shall provide to the Texas Higher Education Coordinating Board and shall publish on the institution's website a report describing the composition of the institution's entering class of students. The report must include a demographic breakdown of the class, including a breakdown by race, ethnicity, ~~and~~ economic status, and high school class standing. A report submitted by a general academic teaching institution or medical and dental unit as defined in Section 61.003 must include separate demographic breakdowns of the students admitted under Sections 51.803, 51.804, and 51.805 and a description of any plans, policies, or programs developed or implemented by the institution to recruit and retain students from underrepresented groups such as racial or ethnic minority groups.

The amendment to **HB 3851** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Committee Amendment No. 2.

Senator Shapiro offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 3851** by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill appropriately:

SECTION ____. Subtitle A, Title 3, Education Code, is amended by adding Chapter 51A to read as follows:

CHAPTER 51A. ONLINE PERFORMANCE REPORT CARDS FOR
INSTITUTIONS OF HIGHER EDUCATION
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 51A.001. DEFINITIONS. In this chapter:

(1) "Coordinating board" means the Texas Higher Education Coordinating Board.

(2) "General academic teaching institution," "institution of higher education," "medical and dental unit," "public state college," and "public technical institute" have the meanings assigned by Section 61.003.

Sec. 51A.002. POWERS AND DUTIES OF COORDINATING BOARD RELATING TO REPORT CARDS; GENERAL REQUIREMENTS FOR REPORT CARDS. (a) The coordinating board, in consultation with each institution of higher education to which this chapter applies, shall develop and maintain online report cards for each of those institutions.

(b) The coordinating board shall:

(1) request from each institution of higher education to which this chapter applies any information the coordinating board considers necessary for the coordinating board to include information or calculate data required to be included in the institution's report card;

(2) establish for each institution of higher education to which this chapter applies a list of representative in-state and out-of-state peer institutions and maintain that list on the coordinating board's Internet website;

(3) ensure that each of an institution of higher education's online report cards:

(A) is available to the public on the coordinating board's Internet website in a one-page format and is accessible through a link that appears in a prominent place on the coordinating board's Internet website homepage;

(B) uses enhanced, user-friendly search capabilities to ensure that the information required to be included in the report card is easily accessible to the persons for whom the report card is designed; and

(C) includes a clearly identifiable link to information on the coordinating board's Internet website regarding the coordinating board's higher education accountability system; and

(4) ensure that the information provided in each report card is accurate and up to date.

(c) The coordinating board may modify, as the coordinating board considers necessary, national data regarding an institution's out-of-state peer institutions to ensure uniformity in the comparison of that data to data regarding the institution for which the report card is created and the institution's in-state peer institutions in a report card under this chapter.

Sec. 51A.003. DUTIES OF INSTITUTIONS OF HIGHER EDUCATION RELATING TO REPORT CARDS. Each institution of higher education to which this chapter applies shall:

(1) submit to the coordinating board any information requested by the coordinating board as necessary for the coordinating board to include information or calculate data required to be included in the institution's report cards; and

(2) ensure that the institution's Internet website homepage includes, in a prominent place, an accessible link to the institution's online report cards maintained on the coordinating board's Internet website.

[Sections 51A.004-51A.050 reserved for expansion]

SUBCHAPTER B. ONLINE PERFORMANCE REPORT CARDS FOR GENERAL ACADEMIC TEACHING INSTITUTIONS

Sec. 51A.051. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to general academic teaching institutions, other than public state colleges.

Sec. 51A.052. REPORT CARD FOR LEGISLATORS AND OTHER POLICY MAKERS. (a) The coordinating board shall maintain for each institution to which this subchapter applies an online report card that is designed for use by legislators and other interested policy makers.

(b) The report card required by this section must identify:

(1) the institutional grouping to which the institution is assigned under the coordinating board's higher education accountability system; and

(2) the institution's in-state and out-of-state peer institutions.

(c) For purposes of this section, information required to be included in the report card regarding the institution's in-state or out-of-state peer institutions must be listed in the form of the average of that information for those institutions unless otherwise prescribed by coordinating board rule.

(d) The report card must include the following information relating to the institution for the most recent state fiscal year and compare that information by percentage to the same information for the state fiscal year preceding the most recent state fiscal year and the state fiscal year preceding the most recent state fiscal year by five years:

(1) under the heading "ENROLLMENT," the total number of students enrolled in the institution during the fall semester;

(2) under the heading "COSTS," the average annual total academic costs for a resident undergraduate student enrolled in 30 semester credit hours:

(A) at the institution; and

(B) at the institution's in-state and out-of-state peer institutions;

(3) under the heading "STUDENT SUCCESS":

(A) the retention rate of first-time, full-time, degree-seeking entering undergraduate students:

(i) enrolled in the institution after one academic year and after two academic years; and

(ii) enrolled in the institution's out-of-state peer institutions after one academic year and in the institution's in-state peer institutions after two academic years;

(B) the percentage of undergraduate students requiring developmental education who, after six years from entering the institution, graduated from or are still enrolled in:

(i) the institution; and

(ii) the institution's in-state peer institutions;

(C) the four-year and six-year graduation rates of full-time bachelor's degree-seeking students:

(i) at the institution; and

(ii) at the institution's in-state and out-of-state peer institutions; and

(D) the average number of years of enrollment attempted by a student to obtain a bachelor's degree:

(i) at the institution; and

(ii) at the institution's in-state and out-of-state peer institutions; and

(4) under the heading "FUNDING":

(A) the total amount of money appropriated by the legislature to the institution, including money appropriated for faculty and staff health coverage and other benefits; and

(B) the total amount of money from any source available to the institution in that state fiscal year.

Sec. 51A.053. REPORT CARD FOR PROSPECTIVE STUDENTS, PARENTS, AND MEMBERS OF THE PUBLIC. (a) The coordinating board shall maintain for each institution to which this subchapter applies an online performance report card that is designed for use by prospective students of the institution, their parents, and other interested members of the public.

(b) The report card must identify:

(1) the institutional grouping to which the institution is assigned under the coordinating board's higher education accountability system; and

(2) the institution's in-state peer institutions.

(c) The report card must include the following information relating to the most recent state fiscal year:

(1) under the heading "ENROLLMENT":

(A) the total number of students enrolled in the institution during the fall semester; and

(B) a clearly identifiable link to the information described by Paragraph (A) disaggregated by student ethnicity;

(2) under the heading "DEGREES AWARDED":

(A) the number of bachelor's degrees, number of master's degrees, number of doctoral degrees, and number of professional degrees awarded by the institution; and

(B) a clearly identifiable link to the information described by Paragraph (A) disaggregated by student ethnicity;

(3) under the heading "COSTS":

(A) the average annual total academic costs for a resident undergraduate student enrolled in 30 semester credit hours at the institution;

(B) clearly identifiable links to information regarding:
(i) the rate or rates of tuition per semester credit hour charged by the institution;

(ii) any tuition and fee incentives offered by the institution; and

(iii) the amount and percentage by which the institution has increased tuition for a program or course level during the state fiscal year covered by the report card;

(C) the average cost of on-campus room and board per student; and

(D) the average cost to a resident undergraduate student enrolled in 30 semester credit hours for total academic costs and on-campus room and board, excluding the cost of books, supplies, transportation, or other expenses;

(4) under the heading "FINANCIAL AID":

(A) the percentage of undergraduate students enrolled in the institution who receive grants or scholarships;

(B) the percentage of undergraduate students enrolled in the institution who receive grants, scholarships, loans, or work-study funds;

(C) the average amount of an undergraduate student's grant and scholarship package;

(D) the average amount of an undergraduate student's grant, scholarship, loan, and work-study package; and

(E) the percentage of undergraduate students who graduate from the institution with education-related debt and, to the extent information is available, the average amount of education-related debt of those students;

(5) under the heading "ADMISSIONS":

(A) the percentage of undergraduate students whose Scholastic Assessment Test (SAT) score placed the students in the 25th to 75th percentile of students' scores on that test nationally;

(B) the percentage of undergraduate students whose American College Test (ACT) score placed the students in the 25th to 75th percentile of students' scores on that test nationally; and

(C) the percentage of the students who applied for first-time undergraduate admission to the institution who were offered admission to the institution;

(6) under the heading "INSTRUCTION":

(A) the student/faculty ratio at the institution;

(B) the percentage of organized undergraduate classes offered by the institution in which fewer than 20 students are enrolled;

(C) the percentage of organized undergraduate classes offered by the institution in which more than 50 students are enrolled; and

(D) the percentage of faculty members of the institution who are tenured or tenure-track;

(7) under the heading "BACCALAUREATE SUCCESS":

(A) four-year, five-year, and six-year graduation rates for full-time bachelor's degree-seeking students at the institution, and links to that information disaggregated by student ethnicity; and

(B) the average number of years of enrollment attempted by a student to obtain a bachelor's degree; and

(8) under the heading "FIRST-TIME LICENSURE OR CERTIFICATION EXAMINATION PASS RATES," the first-time licensure or certification examination pass rates in the fields of education, law, pharmacy, nursing, and engineering of students enrolled in the institution or who have graduated from the institution.

[Sections 51A.054-51A.100 reserved for expansion]

SUBCHAPTER C. PERFORMANCE REPORT CARDS FOR LOWER-DIVISION INSTITUTIONS

Sec. 51A.101. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to the following institutions of higher education:

(1) public junior colleges;

(2) public technical institutes; and

(3) public state colleges.

Sec. 51A.102. REPORT CARD FOR LEGISLATORS AND OTHER POLICY MAKERS. (a) The coordinating board shall maintain for each institution to which this subchapter applies an online performance report card for the institution designed for use by legislators and other interested policy makers.

(b) The report card must identify:

(1) the institutional grouping to which the institution is assigned under the coordinating board's higher education accountability system; and

(2) the institution's in-state peer institutions.

(c) For purposes of this section, information required to be included in the report card regarding the institution's in-state peer institutions must be listed in the form of the average of that information for those institutions unless otherwise prescribed by coordinating board rule.

(d) The report card must include the following information relating to the institution for the most recent state fiscal year and compare that information by percentage to the same information for the state fiscal year preceding the most recent state fiscal year and the state fiscal year preceding the most recent state fiscal year by five years:

(1) under the heading "ENROLLMENT," the total number of students enrolled in the institution during the fall semester;

(2) under the heading "COSTS," the average annual total academic costs, which for a junior college must include those costs for an in-district and an out-of-district student, for a student enrolled in 30 semester credit hours toward a two-year degree or certificate:

(A) at the institution; and

(B) at the institution's in-state peer institutions;

(3) under the heading "STUDENT SUCCESS":

(A) the retention rate of first-time, full-time, degree-seeking entering undergraduate students:

(i) enrolled in the institution after two academic years; and

(ii) enrolled in the institution's in-state peer institutions after two

academic years;

(B) the percentage of undergraduate students requiring developmental education who, after three years from entering the institution, graduated from or are still enrolled in:

(i) the institution; and

(ii) the institution's in-state peer institutions;

(C) the three-year, four-year, and six-year graduation rates of full-time degree-seeking students:

(i) at the institution; and

(ii) at the institution's in-state peer institutions;

(D) the percentage of students who transfer to a general academic teaching institution or equivalent institution of higher education:

(i) from the institution; and

(ii) from the institution's in-state peer institutions; and

(E) the percentage of students either employed or enrolled in a general academic teaching institution or equivalent institution of higher education within one year after the date of the student's graduation from:

(i) the institution; and

(ii) the institution's in-state peer institutions; and

(4) under the heading "FUNDING":

(A) the total amount of money appropriated by the legislature to the institution for that state fiscal year, including money appropriated for faculty and staff health coverage and other benefits;

(B) the total amount of money from any source available to the institution in that state fiscal year; and

(C) the tax rate per \$100 valuation of taxable property imposed by the junior college district, if the institution is a public junior college.

Sec. 51A.103. REPORT CARD FOR PROSPECTIVE STUDENTS, PARENTS, AND OTHER MEMBERS OF THE PUBLIC. (a) The coordinating board shall maintain for each institution to which this subchapter applies an online performance report card that is designed for use by prospective students of the institution, their parents, and other interested members of the public.

(b) The report card must identify:

(1) the institutional grouping to which the institution is assigned under the coordinating board's higher education accountability system; and

(2) the institution's in-state peer institutions.

(c) For purposes of this section, information required to be included in the report card regarding the institution's in-state peer institutions must be listed in the form of the average of that information for those institutions unless otherwise prescribed by coordinating board rule.

(d) The report card must include the following information relating to the most recent state fiscal year:

(1) under the heading "ENROLLMENT":

(A) the total number of students enrolled during the fall semester:

(i) at the institution; and

(ii) at the institution's in-state peer institutions; and

(B) a clearly identifiable link to information described by Paragraph (A) disaggregated by student ethnicity;

(2) under the heading "DEGREES AND CERTIFICATES AWARDED":

(A) the number of degrees or certificates awarded for each level, type, or other category of degree or certificate specified by the coordinating board for purposes of this paragraph:

(i) by the institution; and

(ii) by the institution's in-state peer institutions; and

(B) a clearly identifiable link to the information described by Paragraph (A) disaggregated by student ethnicity;

(3) under the heading "COSTS," the average annual total academic costs, which for a junior college must include those costs for an in-district and out-of-district student, for a student enrolled in 30 semester credit hours toward a two-year degree:

(A) at the institution; and

(B) at the institution's in-state peer institutions;

(4) under the heading "FINANCIAL AID":

(A) the percentage of students who receive grants or scholarships:

(i) at the institution; and

(ii) at the institution's in-state peer institutions;

(B) the percentage of students who receive grants, scholarships, loans, or work-study funds:

(i) at the institution; and

(ii) at the institution's in-state peer institutions;

(C) the average amount of a student's grant and scholarship package:

(i) at the institution; and

(ii) at the institution's in-state peer institutions;

(D) the average amount of a student's grant, scholarship, loan, and work-study package:

(i) at the institution; and

(ii) at the institution's in-state peer institutions; and

(E) the percentage of students who graduated with education-related debt and, to the extent information is available, the average amount of education-related debt of those students:

(i) from the institution; and

(ii) from the institution's in-state peer institutions; and

(5) under the heading "STUDENT SUCCESS":

(A) the retention rate of first-time, full-time, degree-seeking entering undergraduate students:

(i) enrolled in the institution after two academic years; and

(ii) enrolled in the institution's in-state peer institutions after two

academic years;

(B) the percentage of students requiring developmental education who, after three years from entering the institution, have graduated from or are still enrolled in:

(i) the institution; and

(ii) the institution's in-state peer institutions;

(C) the three-year, four-year, and six-year graduation rates of full-time degree-seeking students:

(i) at the institution; and

(ii) at the institution's in-state peer institutions;

(D) the percentage of students who transfer to a general academic teaching institution or equivalent institution of higher education:

(i) from the institution; and

(ii) from the institution's in-state peer institutions; and

(E) the percentage of students either employed or enrolled in a general academic teaching institution or equivalent institution of higher education within one year after the date of the student's graduation from:

(i) the institution; and

(ii) the institution's in-state peer institutions.

[Sections 51A.104-51A.150 reserved for expansion]

SUBCHAPTER D. ONLINE PERFORMANCE REPORT CARDS FOR MEDICAL AND DENTAL UNITS

Sec. 51A.151. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to medical and dental units.

Sec. 51A.152. REPORT CARD FOR LEGISLATORS AND OTHER POLICY MAKERS. (a) The coordinating board shall maintain for each institution to which this subchapter applies an online performance report card designed for use by legislators and other interested policy makers.

(b) The report card must identify:

(1) the institutional grouping to which the institution is assigned under the coordinating board's higher education accountability system; and

(2) the institution's in-state and out-of-state peer institutions.

(c) For purposes of this section, information required to be included in the report card regarding the institution's in-state or out-of-state peer institutions must be listed in the form of the average of that information for those institutions unless otherwise prescribed by coordinating board rule.

(d) The report card must include the following information relating to the institution for the most recent state fiscal year and compare that information by percentage to the same information for the state fiscal year preceding the most recent state fiscal year and the state fiscal year preceding the most recent state fiscal year by five years:

(1) under the heading "ENROLLMENT":

(A) the total number of students enrolled in the institution during the fall semester;

(B) if applicable, the total number of students enrolled in the institution's medical school during the fall semester; and

(C) if applicable, the total number of students enrolled as resident physicians in residency programs accredited by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association at the institution on the most recent September 1 for which the information is available;

(2) under the heading "COSTS," the average annual total academic costs, including those costs identified by type of degree program if required by coordinating board rule, for a resident, full-time undergraduate student and for a resident, full-time graduate student:

(A) at the institution; and

(B) at the institution's in-state and out-of-state peer institutions;

(3) under the heading "STUDENT SUCCESS":

(A) if applicable, the percentage of medical school students who pass Part 1 or Part 2 of any examination administered or accepted for a medical license under Subtitle B, Title 3, Occupations Code:

(i) at the institution; and

(ii) at the institution's in-state and out-of-state peer institutions;

(B) if applicable, the percentage of medical school students who are practicing primary care in this state:

(i) after graduating from the institution; and

(ii) after graduating from the institution's in-state peer institutions;

(C) the number of nursing degrees or allied health degrees awarded for each level:

(i) by the institution; and

(ii) by the institution's in-state and out-of-state peer institutions;

and

(D) the estimated total amount of the institution's research expenditures during that state fiscal year; and

(4) under the heading "FUNDING":

(A) the total amount of money appropriated by the legislature to the institution, including money appropriated for faculty and staff health coverage and other benefits, for that state fiscal year; and

(B) the total amount of money from any source available to the institution for that state fiscal year.

Sec. 51A.153. REPORT CARD FOR PROSPECTIVE STUDENTS, PARENTS, AND OTHER MEMBERS OF THE PUBLIC. (a) The coordinating board shall maintain for each institution to which this subchapter applies an online performance report card that is designed for use by prospective students of the institution, their parents, and other interested members of the public.

(b) The report card must identify:

(1) the institutional grouping to which the institution is assigned under the coordinating board's higher education accountability system; and

(2) the institution's in-state and out-of-state peer institutions.

(c) For purposes of this section, information required to be included in the report card regarding the institution's in-state peer institutions must be listed in the form of the average of that information for those institutions unless otherwise prescribed by coordinating board rules.

(d) The report card must include the following information relating to the most recent state fiscal year:

(1) under the heading "ENROLLMENT," with clearly identifiable links to the information disaggregated by student ethnicity:

(A) the total number of students enrolled in the institution during the fall semester;

(B) if applicable, the total number of students enrolled in the institution's medical school during the fall semester; and

(C) if applicable, the total number of students enrolled as resident physicians in residency programs accredited by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association at the institution on the most recent September 1 for which the information is available;

(2) under the heading "COSTS":

(A) the average annual total academic costs, including those costs identified by type of degree program if required by coordinating board rule, for a resident, full-time student at the institution;

(B) clearly identifiable links to information regarding:

(i) the rate or rates of tuition per semester credit hour charged by the institution;

(ii) any tuition and fee incentives offered by the institution; and

(iii) the amount and percentage by which the institution has increased tuition for a program or course level during the five state fiscal years preceding the state fiscal year covered by the report card;

(C) the average cost of on-campus room and board per student; and

(D) the average cost to a resident undergraduate student enrolled in 30 semester credit hours for tuition and fees and on-campus room and board;

(3) under the heading "FINANCIAL AID":

(A) the percentage of undergraduate students enrolled in the institution who receive grants or scholarships;

(B) the percentage of undergraduate students enrolled in the institution who receive grants, scholarships, loans, or work-study funds;

(C) the average amount of an undergraduate student's grant and scholarship package;

(D) the average amount of an undergraduate student's grant, scholarship, loan, and work-study package; and

(E) the percentage of undergraduate students who graduated from the institution with education-related debt and, to the extent information is available, the average education-related debt of those students;

(4) under the heading "STUDENT SUCCESS":

(A) if applicable, the percentage of medical school students who pass Part 1 or Part 2 of any examination administered or accepted for a medical license under Subtitle B, Title 3, Occupations Code:

(i) at the institution; and

(ii) at the institution's in-state peer institutions;

(B) if applicable, the percentage of medical school students who are practicing primary care in this state:

(i) after graduating from the institution; and

(ii) after graduating from the institution's in-state peer institutions;

(C) the number of nursing degrees or allied health degrees awarded for each level:

(i) by the institution; and

(ii) by the institution's in-state peer institutions; and

(D) the estimated total amount of the institution's research expenditures; and

(5) under the heading "FIRST-TIME LICENSURE OR CERTIFICATION EXAMINATION PASS RATES," the first-time licensure or certification examination pass rates in applicable fields of students who are enrolled in or have graduated from:

(A) the institution; and

(B) the institution's in-state peer institutions.

SECTION ____ . The Texas Higher Education Coordinating Board shall create the online performance report cards required by Chapter 51A, Education Code, as added by this Act, and provide the report cards on the board's Internet website not later than February 1, 2008.

The amendment to **HB 3851** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

Senator Shapiro offered the following amendment to the bill:

Floor Amendment No. 2

Amend **HB 3851** by adding the following appropriately numbered SECTIONS to the bill and renumbering the other SECTIONS of the bill accordingly:

SECTION ____ . Section 56.302, Education Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) Notwithstanding Subsection (a), an individual grant awarded under Section 56.3076 is known as a TEXAS technology grant. A TEXAS technology grant is not a TEXAS grant for purposes of this subchapter. This subsection expires September 1, 2013.

SECTION ____. Subsection (a), Section 56.3021, Education Code, is amended to read as follows:

(a) Notwithstanding any other provision of this subchapter, a student who was awarded a TEXAS grant under this subchapter to pay the costs of enrollment in a private or independent institution of higher education for the 2005 fall semester or an earlier academic period may continue to receive a TEXAS grant [~~grants under this subchapter~~] while enrolled in a private or independent institution of higher education if the student is otherwise eligible to receive a TEXAS grant under this subchapter.

SECTION ____. Section 56.304, Education Code, is amended by amending Subsections (a), (b), and (f) and adding Subsection (b-1) to read as follows:

(a) To be eligible initially for a TEXAS grant, a person must:

- (1) be a resident of this state as determined by coordinating board rules;
- (2) meet either of the following academic requirements:

(A) be a graduate of a public or accredited private high school in this state [~~who graduated not earlier than the 1998-1999 school year and~~] who completed the recommended or advanced high school curriculum established under Section 28.002 or 28.025 or its equivalent; or

(B) have received an associate degree from a public or private institution of higher education [~~not earlier than May 1, 2001~~];

(3) meet financial need requirements as defined by the coordinating board;

(4) be enrolled in an undergraduate degree or certificate program at an eligible institution;

(5) be enrolled as:

(A) an entering undergraduate student for at least three-fourths of a full course load for an entering undergraduate student, as determined by the coordinating board, not later than the 16th month after the date of the person's graduation from high school; or

(B) an entering student for at least three-fourths of a full course load for an undergraduate student as determined by the coordinating board, not later than the 12th month after the month the person receives an associate degree from a public or private institution of higher education;

(6) have applied for any available financial aid or assistance; and

(7) comply with any additional nonacademic requirement adopted by the coordinating board under this subchapter.

(b) Except as otherwise provided by Subsection (b-1), a [A] person is not eligible to receive a TEXAS grant if the person has been convicted of a felony [or an offense under Chapter 481, Health and Safety Code (Texas Controlled Substances Act), or under the law of another jurisdiction involving a controlled substance as defined by Chapter 481, Health and Safety Code,] unless the person has met the other applicable eligibility requirements under this subchapter and has:

(1) received a certificate of discharge by the Texas Department of Criminal Justice or a correctional facility or completed a period of probation ordered by a court, and at least two years have elapsed from the date of the receipt or completion; or

(2) been pardoned, had the record of the offense expunged from the person's record, or otherwise has been released from the resulting ineligibility to receive a grant under this subchapter.

(b-1) A person who is convicted of any offense under a federal or state law, including the law of another state, involving the possession or sale of a controlled substance, as defined by Chapter 481, Health and Safety Code, for conduct that occurred during a period of enrollment in which the person is receiving a TEXAS grant:

(1) is ineligible to receive a TEXAS grant for the same period for which 20 U.S.C. Section 1091(r) provides for ineligibility to receive a federal grant, loan, or work assistance had the conduct occurred during a period of enrollment in which the person was receiving a federal grant, loan, or work assistance; and

(2) may become eligible to receive a TEXAS grant before the end of the ineligibility period provided by Subdivision (1) in the same manner as provided by 20 U.S.C. Section 1091(r) for a person to resume eligibility for a federal grant, loan, or work assistance.

(f) The requirement in Subsection (a)(2) that a person must have completed the recommended or advanced high school curriculum does not apply to a person who:

(1) attended a public high school in a school district if, not later than March 1 of the school year in which the person is scheduled to graduate from high school, the superintendent of that district certifies to the coordinating board [commissioner of education] that the high school did not offer all the necessary courses for a person to complete all parts of the recommended or advanced high school curriculum; and

(2) completed all courses at the high school offered toward the completion of the recommended or advanced high school curriculum.

SECTION _____. Subsections (a), (b), and (c), Section 56.305, Education Code, are amended to read as follows:

(a) After initially qualifying for a TEXAS grant, a person may continue to receive a TEXAS grant during each academic year [semester or term] in which the person is enrolled at an eligible institution only if the person:

(1) meets financial need requirements as defined by the coordinating board;

(2) is enrolled in an undergraduate degree or certificate program at an eligible institution;

(3) is enrolled for at least three-fourths of a full course load for an undergraduate student, as determined by the coordinating board;

(4) makes satisfactory academic progress toward an undergraduate degree or certificate; and

(5) complies with any additional nonacademic requirement adopted by the coordinating board.

(b) A person who under Section 56.304(b) or (b-1) would not be [is not] eligible [to continue] to receive a TEXAS grant is not eligible to continue to receive a grant under this section [if the person has been convicted of a felony or an offense under

~~Chapter 481, Health and Safety Code (Texas Controlled Substances Act), or under the law of another jurisdiction involving a controlled substance as defined by Chapter 481, Health and Safety Code, unless the person has met the other applicable eligibility requirements under this subchapter and has:~~

~~[(1) received a certificate of discharge by the Texas Department of Criminal Justice or a correctional facility or completed a period of probation ordered by a court, and at least two years have elapsed from the date of the receipt or completion; or~~

~~[(2) been pardoned, had the record of the offense expunged from the person's record, or otherwise has been released from the resulting ineligibility to receive a grant under this subchapter].~~

(c) If a person fails to meet any of the requirements of Subsection (a) after the completion of any academic year [semester or term], the person may not receive a TEXAS grant for a semester or term of [during] the next academic year [semester or term] in which the person enrolls. A person may become eligible to receive a TEXAS grant in a subsequent academic year [semester or term] if the person:

(1) completes an academic year [a semester or term] during which the student is not eligible for a scholarship; and

(2) meets all the requirements of Subsection (a).

SECTION ____ . Subchapter M, Chapter 56, Education Code, is amended by adding Section 56.3076 to read as follows:

Sec. 56.3076. TEXAS TECHNOLOGY GRANT PILOT PROGRAM. (a) Grants may be awarded under this section only from:

(1) the amount of money available for TEXAS grants for an award period that exceeds the amount necessary to award a TEXAS grant to each eligible applicant in the applicable amount determined under Section 56.307;

(2) money specifically appropriated for purposes of this section; or

(3) money, other than money described by Subdivision (1) or (2), that may lawfully be used for purposes of this section.

(b) The coordinating board may use money described by Subsection (a) to award a TEXAS technology grant to a student who:

(1) is enrolled in an undergraduate engineering or computer science program;

(2) has completed at least 60 semester credit hours toward a baccalaureate degree in engineering or computer science; and

(3) meets all eligibility requirements under Section 56.305 to receive a TEXAS grant.

(c) The amount of a TEXAS technology grant is determined by the coordinating board and may not exceed an amount equal to two times the amount that may be awarded as a TEXAS grant under Section 56.307(a) for the same academic period.

(d) In awarding a TEXAS technology grant, the coordinating board:

(1) shall give priority to a student who is a member of a group underrepresented in engineering or computer science, as applicable, as established under coordinating board rule;

(2) may award different amounts based on the amount of coursework a student has completed toward earning a degree in engineering or computer science, as provided by coordinating board rule; and

(3) if the money available for TEXAS technology grants is insufficient to award a grant to each eligible applicant, may give priority in awarding grants to students who demonstrate the greatest financial need.

(e) Section 56.306 applies to the use and disbursement of a TEXAS technology grant in the same manner as that section applies to the use and disbursement of a TEXAS grant.

(f) A person may not simultaneously receive a TEXAS grant and a TEXAS technology grant.

(g) This section expires September 1, 2013.

SECTION ____ . Subsection (b), Section 56.308, Education Code, is amended to read as follows:

(b) Each school district shall:

(1) notify its middle school students, junior high school students, and high school students, those students' teachers and counselors, and those students' parents of federal and state financial aid [the TEXAS grant and Teach for Texas grant] programs to assist students with paying the costs of higher education, the primary eligibility requirements of the programs [each program], the need for students to make informed curriculum choices to be prepared for success beyond high school, [and] sources of information on higher education admissions, and sources of information on financial aid in a manner that assists the district in implementing a strategy adopted by the district under Section 11.252(a)(4); and

(2) ensure that each student's official transcript or diploma indicates whether the student has completed or is on schedule to complete:

(A) the recommended or advanced high school curriculum required for grant eligibility under Section 28.002 or 28.025; or

(B) for a school district covered by Section 56.304(f)(1), the required portion of the recommended or advanced high school curriculum in the manner described by Section 56.304(f)(2).

SECTION ____ . Section 56.311, Education Code, is transferred to Subchapter A, Chapter 56, Education Code, redesignated as Section 56.005, and amended to read as follows:

Sec. 56.005 [~~56.311~~]. LEGISLATIVE OVERSIGHT COMMITTEE ON STATE FINANCIAL AID PROGRAMS FOR HIGHER EDUCATION. (a) The Legislative Oversight Committee on state financial aid programs for higher education [the TEXAS grant program and Teach for Texas grant program] is composed of six members as follows:

(1) three members of the senate appointed by the lieutenant governor; and

(2) three members of the house of representatives appointed by the speaker of the house of representatives.

(b) The committee shall:

(1) meet at least twice a year with the coordinating board; and

(2) receive information regarding rules relating to state financial aid programs for higher education [the TEXAS grant program and Teach for Texas grant program] that have been adopted by the coordinating board or proposed for adoption by the coordinating board.

(c) The committee may request reports and other information from the coordinating board relating to the operation by the coordinating board of state financial aid programs for higher education [~~the TEXAS grant program and Teach for Texas grant program by the coordinating board~~].

(d) The committee shall review the specific recommendations for legislation [~~related to this subchapter~~] that are proposed by the coordinating board in relation to state financial aid programs for higher education.

(e) The committee shall monitor the operation of state financial aid programs for higher education [~~the TEXAS grant program and Teach for Texas grant program~~], with emphasis on the manner of the award of financial aid [~~grants~~], the total amount of financial aid [~~number of grants~~] awarded, the amount of financial aid awarded under each state financial aid program, and the educational progress made by persons who have received financial aid [~~grants~~] under those programs.

(f) The committee shall file a report with the governor, lieutenant governor, and speaker of the house of representatives not later than December 31 of each even-numbered year.

(g) The report shall include identification of any problems in the state financial aid programs for higher education [~~TEXAS grant program and Teach for Texas grant program~~] with recommended solutions for the coordinating board and for legislative action.

SECTION ____. Section 56.463, Education Code, is amended by adding Subsection (c) to read as follows:

(c) The coordinating board shall distribute money in the Texas B-On-time student loan account to be paid to an eligible institution under this subchapter through the electronic funds transfer system that is maintained by the Texas Guaranteed Student Loan Corporation for disbursing loan money from commercial lenders participating in the guaranteed student loan program under Chapter 57, except that, at the request of an eligible institution, the coordinating board may distribute the money through another means specified by the institution. The coordinating board and the Texas Guaranteed Student Loan Corporation shall enter into a contract that provides for the corporation to make the electronic funds transfer system available for the coordinating board's use as necessary to carry out this subsection.

SECTION ____. Subchapter C, Chapter 61, Education Code, is amended by adding Sections 61.0661, 61.0662, and 61.0663 to read as follows:

Sec. 61.0661. FEASIBILITY STUDY REGARDING ISSUANCE OF DEBIT CARDS TO STUDENTS AWARDED FINANCIAL AID. (a) The board, in consultation with student financial aid officers of institutions of higher education and private or independent institutions of higher education, shall conduct a study to evaluate:

(1) the feasibility of issuing to a student who is awarded state or institutional financial aid to pay higher education expenses a debit card for debiting the account to which the student's financial aid money is assigned;

(2) if feasible to issue a debit card, the financial aid programs for which use of a debit card would be suitable;

(3) the manner, if any, in which a debit card could be consolidated with another debit card issued to a student by an institution of higher education or a private or independent institution of higher education; and

(4) any other issue the study participants determine would be helpful in making decisions concerning the issuance of a debit card to a student who is awarded state or institutional financial aid.

(b) Not later than September 30, 2008, the board shall complete the study required by Subsection (a) and shall submit to the governor, the lieutenant governor, the speaker of the house of representatives, and the presiding officer of each legislative standing committee or subcommittee with primary jurisdiction over higher education a report that includes any recommendations that result from the study.

(c) This section expires January 1, 2009.

Sec. 61.0662. IMPACT STUDY: OVERALL GRADE POINT AVERAGE REQUIREMENT FOR FINANCIAL AID; COMPUTATION OF GRADE POINT AVERAGE. (a) The board, in consultation with appropriate representatives of institutions of higher education and private or independent institutions of higher education, shall conduct a study to evaluate the impact of:

(1) requiring a student to maintain an overall grade point average of at least 3.0 on a four-point scale or the equivalent in order for the student to retain eligibility for receiving state financial aid to pay higher education costs; and

(2) excluding from the computation of overall grade point average for purposes of determining eligibility to receive state financial aid, any grade a student receives in an elective course.

(b) In conducting the study required by Subsection (a)(1), the board:

(1) shall consider whether a grade point average requirement higher than 2.5 on a four-point scale or the equivalent for retaining eligibility for receiving state financial aid should be phased in over time; and

(2) may consider the impact of establishing an overall grade point average requirement that is higher than 2.5 on a four-point scale or the equivalent but that is lower than 3.0 on a four-point scale or the equivalent.

(c) Not later than September 30, 2008, the board shall complete the study required by this section and shall submit to the governor, the lieutenant governor, the speaker of the house of representatives, and the presiding officer of each legislative standing committee and subcommittee with primary jurisdiction over higher education a report that includes any recommendations that result from the study.

(d) This section expires January 1, 2009.

Sec. 61.0663. FEASIBILITY STUDY REGARDING TEXAS GRANT AWARD AMOUNTS. (a) The board, in consultation with appropriate representatives of institutions of higher education, shall conduct a study to evaluate the feasibility of awarding to a student who is eligible for a TEXAS grant under Subchapter M, Chapter 56, until the student has completed 90 semester credit hours of higher education coursework, less than the full amount of a TEXAS grant, as that amount is determined under Section 56.307. The board and the other study participants shall consider awarding to an eligible student amounts equal to the following percentages of the full amount of a TEXAS grant:

(1) 50 percent, until the student has completed 30 semester credit hours of higher education coursework;

(2) 60 percent, until the student has completed 60 semester credit hours of higher education coursework; and

(3) 75 percent, until the student has completed 90 semester credit hours of higher education coursework.

(b) The board and the other study participants may consider:

(1) awarding amounts based on percentages of the full amount of a TEXAS grant other than the percentages specified by Subsection (a); or

(2) basing reduced TEXAS grant award amounts on numbers of semester credit hour coursework completed other than the numbers specified by Subsection (a).

(c) Not later than September 30, 2008, the board shall complete the study required by Subsection (a) and shall submit to the governor, the lieutenant governor, the speaker of the house of representatives, and the presiding officer of each legislative standing committee and subcommittee with primary jurisdiction over higher education a report that includes any recommendations that result from the study.

SECTION ____. Subsections (b) and (c), Section 61.2251, Education Code, as added by Chapter 1230, Acts of the 79th Legislature, Regular Session, 2005, are amended to read as follows:

(b) To be eligible for a tuition equalization grant in the first academic year in which the person receives the grant, a person must:

(1) be a Texas resident as defined by the coordinating board and meet, at a minimum, the resident requirements defined by law for Texas resident tuition in fully state-supported institutions of higher education;

(2) be enrolled for a full course load conforming to an individual degree plan in an approved college or university;

(3) be required to pay more tuition than is required at a public college or university and be charged no less than the regular tuition required of all students enrolled at the institution;

(4) establish financial need in accordance with procedures and regulations of the coordinating board;

(5) not be a recipient of any form of athletic scholarship; ~~and~~

(6) make satisfactory academic progress toward a degree or certificate by meeting the requirements established for that purpose by the approved college or university in which the person is enrolled; and

(7) have complied with other requirements adopted by the coordinating board under this subchapter.

(c) After qualifying for a tuition equalization grant under Subsection (b), a person may receive a tuition equalization grant in a subsequent academic year in which the person is enrolled at an approved institution only if the person:

(1) meets the requirements of Subsection (b), other than the requirements established under Subsection (b)(6);

(2) makes satisfactory academic progress toward a degree or certificate by completing ~~completed~~ at least:

(A) 24 semester credit hours in the person's most recent academic year, if the person is enrolled in an undergraduate degree or certificate program; or

(B) 18 semester credit hours in the person's most recent academic year, if the person is enrolled in a graduate or professional degree program; and

(3) has earned an overall grade point average of at least 2.5 on a four-point scale or the equivalent on coursework previously attempted at public or private institutions of higher education.

SECTION ____. Subsection (g), Section 56.304, Education Code, is repealed.

SECTION ____. (a) Except as provided by Subsection (b) of this section, the changes in law made by this Act to Subchapter M, Chapter 56, Education Code, and to Section 61.2251, Education Code, as added by Chapter 1230, Acts of the 79th Legislature, Regular Session, 2005, apply beginning with the 2008 fall semester.

(b) The Texas Higher Education Coordinating Board shall award TEXAS technology grants under Section 56.3076, Education Code, as added by this Act, beginning with the 2009 fall semester.

The amendment to **HB 3851** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2.

Senator Patrick offered the following amendment to the bill:

Floor Amendment No. 3

Amend **HB 3851** (Senate committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering the subsequent SECTIONS accordingly:

SECTION ____. Chapter 61, Education Code, is amended by adding Subchapter FF to read as follows:

SUBCHAPTER FF. TEXAS TEACH CORPS SCHOLARSHIP PROGRAM

Sec. 61.9831. SCHOLARSHIP PROGRAM; AMOUNT OF SCHOLARSHIP.

(a) In accordance with this subchapter and board rules, the board shall establish and administer the Texas Teach Corps Scholarship Program to award scholarships to undergraduate students who:

(1) are enrolled in educator preparation programs provided by public or private institutions of higher education in this state; and

(2) agree to teach for a specified period in the public schools in this state that are determined by the Texas Education Agency to have shortages of teachers in academic subjects.

(b) The amount of a scholarship under this subchapter for an academic year is equal to the lesser of:

(1) the total amount of tuition that the public or private institution of higher education in which the scholarship recipient is enrolled charges the recipient for that academic year for semester credit hours for which the recipient may use the scholarship to pay tuition as provided by Subsection (c); or

(2) \$5,000.

(c) A student may use a scholarship under this subchapter only to pay tuition for a semester credit hour that is required for completion of the educator preparation program in which the student is enrolled.

(d) For purposes of this subchapter, not later than April 1 of each school year, the Texas Education Agency shall determine which public schools in this state are anticipated to have shortages of teachers during the following school year and shall provide that information to the board and to each educator preparation program in this state accredited by the State Board for Educator Certification. In making the determination required by this subsection, the agency shall consider the availability of teachers for only those subjects designated by agency rule as academic subjects. In making those designations, the agency may not consider athletics, physical education, art, or music, including band, as academic subjects.

Sec. 61.9832. ELIGIBILITY; LIMITATION ON NUMBER OF SCHOLARSHIPS. (a) To be eligible to receive a scholarship under this subchapter, a person must:

(1) have graduated from a high school in this state with an overall grade point average:

(A) of at least 3.0 on a four-point scale or the equivalent; and

(B) in the top 25 percent of the student's graduating class;

(2) be enrolled in an educator preparation program accredited by the State Board for Educator Certification that is provided by a public or private institution of higher education in this state; and

(3) enter into an agreement with the board as provided by Section 61.9833.

(b) Not more than 4,000 scholarships may be awarded under this subchapter for an academic year.

(b-1) This subsection expires September 1, 2011. Notwithstanding Subsection (b), not more than the following number of scholarships may be awarded under this subchapter for the specified academic year:

(1) for the 2008-2009 academic year, not more than 1,000 scholarships may be awarded;

(2) for the 2009-2010 academic year, not more than 2,000 scholarships may be awarded; and

(3) for the 2010-2011 academic year, not more than 3,000 scholarships may be awarded.

(c) If in any year the amount of money available for scholarships under this subchapter is insufficient to award a scholarship to each eligible applicant or if there are more eligible applicants than the number of scholarships authorized by this section, the board shall establish criteria to determine which eligible applicants will be granted scholarships as the board determines appropriate to further the purposes of this subchapter, including criteria that:

(1) are related to the financial need of an applicant; and

(2) serve to ensure geographic and ethnic diversity among scholarship recipients.

Sec. 61.9833. AGREEMENT REQUIREMENTS. (a) To qualify for a scholarship under this subchapter, a person must enter into a written agreement with the board as provided by this section. The agreement must:

(1) specify the conditions the person must satisfy to receive the scholarship award;

(2) require the person to earn a baccalaureate degree through completion of an educator preparation program accredited by the State Board for Educator Certification that is provided by a public or private institution of higher education in this state;

(3) require the person to obtain, within the period prescribed by board rule, appropriate certification under Subchapter B, Chapter 21, to teach in a public school in this state;

(4) require the person to accept, for the first school year that begins after the date the person obtains the appropriate certification, an offer of full-time employment to teach in a public school in this state selected by the person from among schools anticipated by the Texas Education Agency to have shortages of teachers in academic subjects for that first school year for which the person is accepting employment;

(5) require the person to complete eight years of full-time employment teaching as follows:

(A) beginning with the school year described by Subdivision (4), four consecutive school years of employment teaching in one or more public schools in this state selected by the person from among schools anticipated by the Texas Education Agency to have shortages of teachers in academic subjects for the person's applicable year of employment by the school; and

(B) beginning with the school year immediately following the last of the four consecutive school years described by Paragraph (A), four additional consecutive school years teaching in any public school in this state;

(6) provide that any scholarship award the person receives under this subchapter constitutes an interest-free loan until the person:

(A) subject to Section 61.9835, satisfies the requirements of Subdivision (5) and any other applicable conditions of the agreement; or

(B) is excused from the repayment obligation in accordance with law;
and

(7) require the person to sign a promissory note acknowledging the conditional nature of the scholarship award received and promising to repay any unforgiven amount of that award and reasonable collection costs if the person does not satisfy the applicable conditions and is not excused from the repayment obligation in accordance with law.

(b) To satisfy the teaching obligation prescribed by an agreement under this section, a person must teach an academic subject for not less than four hours each school day. For purposes of this subsection, an academic subject is a subject designated as such under Texas Education Agency rule as provided by Section 61.9831(d).

(c) For purposes of Subsection (a)(5)(A), if a person is employed as a teacher in a public school anticipated to have a shortage of teachers in academic subjects in the first year of employment, each subsequent year of continuous employment as a teacher in that school is considered to be employment in a school anticipated to have

such a shortage of teachers in that subsequent year, regardless of whether the Texas Education Agency anticipated that the school would have a shortage of teachers in that year.

(d) The board shall determine the terms of the promissory note required by Subsection (a)(7). To the extent practicable, the terms must be the same as those applicable to state or federally guaranteed student loans made at the same time.

Sec. 61.9834. EXCEPTIONS TO TEACHING AND REPAYMENT OBLIGATIONS. (a) A person is not considered to be in violation of the teaching obligation in the agreement described by Section 61.9833 during any period in which the person:

(1) is pursuing a full-time course of study related to the field of teaching offered by a public or private institution of higher education in this state and approved by the State Board for Educator Certification;

(2) is serving on active duty as a member of the armed forces of the United States, including as a member of a reserve force or National Guard called to active duty;

(3) is temporarily totally disabled for a period not to exceed 36 months as established by the affidavit of a qualified physician;

(4) is unable to secure employment for a period not to exceed 12 months because of care required by a disabled spouse or child;

(5) is seeking and unable to find, for a single period not to exceed 12 months, full-time employment teaching in a public school in this state, or if the person is within the period of the agreement described by Section 61.9833(a)(5)(A), full-time employment teaching in a public school in this state anticipated to have a shortage of teachers in academic subjects for the year for which the person is seeking employment; or

(6) satisfies the provisions of any other teaching exception adopted by the board.

(b) A person is excused from the repayment obligation in a promissory note described by Section 61.9833 if:

(1) the person becomes permanently totally disabled as established by the affidavit of a qualified physician; or

(2) the board waives repayment in the case of extreme hardship to the person.

Sec. 61.9835. FORGIVENESS OF REPAYMENT OBLIGATION. The board shall forgive 25 percent of the total amount of a person's scholarship awards under this subchapter for each complete school year the person teaches in accordance with the agreement under Section 61.9833 after the expiration of the period described by Subsection (a)(5)(A) of that section.

Sec. 61.9836. GRANTS, GIFTS, AND DONATIONS. In addition to money appropriated by the legislature, the board may solicit and accept grants, gifts, and donations from any public or private source for the purposes of this subchapter.

Sec. 61.9837. RULES. (a) The board shall adopt rules to administer this subchapter, including rules:

(1) providing for the manner in which a student may apply for a scholarship; and

(2) providing for notification of the scholarship program under this subchapter to students enrolled in educator preparation programs in this state.

(b) The board shall distribute to each educator preparation program of a public or private institution of higher education in this state a copy of the rules adopted under this section.

SECTION _____. Not later than December 31, 2007, the Texas Higher Education Coordinating Board and the Texas Education Agency shall adopt rules for the Texas Teach Corps Scholarship Program under Subchapter FF, Chapter 61, Education Code, as added by this Act.

The amendment to **HB 3851** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 3.

On motion of Senator Shapiro and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 3851 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

COMMITTEE SUBSTITUTE HOUSE BILL 4032 ON SECOND READING

On motion of Senator Hegar and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 4032** at this time on its second reading:

CSHB 4032, Relating to the creation of the Colorado County Groundwater Conservation District; providing authority to impose a tax and issue bonds.

The bill was read second time.

Senator Hegar offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 4032** (Senate committee printing) by striking Sec. 8824.005 (page 1, line 46 through page 1, line 59) and renumbering subsequent Sections accordingly.

The amendment to **CSHB 4032** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

On motion of Senator Hegar and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSHB 4032 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

**COMMITTEE SUBSTITUTE
HOUSE BILL 4032 ON THIRD READING**

Senator Hegar moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 4032** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 3200 ON THIRD READING

The Presiding Officer, Senator Brimer in Chair, laid before the Senate **HB 3200** by Senator Whitmire on its third reading. The bill had been finally passed, vote reconsidered, an amendment offered, and further consideration postponed to a time certain of 7:00 p.m. today:

HB 3200, Relating to funding for community supervision and corrections departments.

Question — Shall Floor Amendment No. 1 on Third Reading to **HB 3200** be adopted?

Senator Whitmire offered the following amendment to Floor Amendment No. 1 on Third Reading:

Floor Amendment No. 2 on Third Reading

Amend Floor Amendment No. 1 on Third Reading to **HB 3200** by striking on page 2, line 15 the word "or" and adding on page 2, line 17 "; or". The following is added to Subsection (h):

(3) has previously committed an administrative violation and has been confined under Subsection (f) or under Sec. 508.285, Government Code.

The amendment to Floor Amendment No. 1 on Third Reading to **HB 3200** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2 on Third Reading except as follows:

Absent: Ogden.

Question recurring on the adoption of Floor Amendment No. 1 on Third Reading to **HB 3200**, the amendment as amended was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 on Third Reading as amended except as follows:

Absent: Ogden.

On motion of Senator Whitmire and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 3200 as amended was again finally passed by the following vote: Yeas 29, Nays 1.

Nays: Patrick.

Absent: Ogden.

VOTE RECONSIDERED ON HOUSE JOINT RESOLUTION 19

On motion of Senator Carona and by unanimous consent, the vote by which **HJR 19** was finally passed was reconsidered:

HJR 19, Proposing a constitutional amendment to require each house of the legislature to take a record vote on final passage of a bill other than certain local bills, of a resolution proposing or ratifying a constitutional amendment, or of any other nonceremonial resolution, and to publish the record vote on the Internet.

Question — Shall **HJR 19** be finally passed?

Senator Carona offered the following amendment to the resolution:

Floor Amendment No. 1 on Third Reading

Amend **HJR 19** on third reading by striking all below the resolving clause and substituting the following:

SECTION 1. Section 12, Article III, Texas Constitution, is amended to read as follows:

Sec. 12. (a) Each house of the legislature [~~House~~] shall keep a journal of its proceedings, and publish the same.

(b) A vote taken by either house must be by record vote with the vote of each member entered in the journal of that house if the vote is on final passage of a bill, a resolution proposing or ratifying a constitutional amendment, or another resolution other than a resolution of a purely ceremonial or honorary nature. Either house by rule may provide for exceptions to this requirement for a bill that applies only to one district or political subdivision of this state. For purposes of this subsection, a vote on final passage includes a vote on third reading in a house, or on second reading if the house suspends the requirement for three readings, on whether to concur in the other house's amendments, and on whether to adopt a conference committee report.

(c) The [~~;~~ and the] yeas and nays of the members of either house [~~House~~] on any other question shall, at the desire of any three members present, be entered on the journals.

(d) Each house shall make each record vote required under Subsection (b) of this section, including the vote of each individual member as recorded in the journal of that house, available to the public for a reasonable period of not less than two years through the Internet or a successor electronic communications system accessible by the public. For a record vote on a bill or on a resolution proposing or ratifying a constitutional amendment, the record vote must be accessible to the public by reference to the designated number of the bill or resolution and by reference to its subject.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 6, 2007. The ballot shall be printed to permit voting for or against the proposition: "The constitutional amendment to require that a record vote be taken by a house of the legislature on final passage of any bill, other than certain local bills, of a resolution proposing or ratifying a constitutional amendment, or of any other nonceremonial resolution, and to provide for public access on the Internet to those record votes."

The amendment to **HJR 19** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 on Third Reading except as follows:

Absent: Ogden.

On motion of Senator Carona and by unanimous consent, the caption was amended to conform to the body of the resolution as amended.

HJR 19 as amended was again finally passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 3674 ON SECOND READING

On motion of Senator Jackson and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 3674** at this time on its second reading:

HB 3674, Relating to the operation of property owners' associations.

The bill was read second time.

Senator Jackson offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 3674** (Senate committee printing) as follows:

(1) In SECTION 1 of the bill, in added Subparagraph (i), Paragraph (B), Subdivision (2), Subsection (a), Section 551.0015, Government Code (page 1, line 37), after the semicolon, strike "and".

(2) In SECTION 1 of the bill, in added Subparagraph (ii), Paragraph (B), Subdivision (2), Subsection (a), Section 551.0015, Government Code (page 1, line 39), between "defined area" and the period, insert the following:
; and

(iii) was incorporated before January 1, 2006

(3) In SECTION 2 of the bill, in added Subparagraph (i), Paragraph (B), Subdivision (2), Section 552.0036, Government Code (page 2, line 4), after the semicolon, strike "and".

(4) In SECTION 2 of the bill, in added Subparagraph (ii), Paragraph (B), Subdivision (2), Section 552.0036, Government Code (page 2, line 6), between "defined area" and the period, insert the following:
; and

(iii) was incorporated before January 1, 2006

(5) In SECTION 5 of the bill, in added Paragraph (A), Subdivision (2), Subsection (a), Section 209.0055, Property Code (page 2, line 35), after the semicolon, strike "and".

(6) In SECTION 5 of the bill, in added Paragraph (B), Subdivision (2), Subsection (a), Section 209.0055, Property Code (page 2, line 37), between "defined area" and the period, insert the following:
; and

(C) was incorporated before January 1, 2006

The amendment to **HB 3674** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

Senator West offered the following amendment to the bill:

Floor Amendment No. 2

Amend **HB 3674** (Senate committee printing) as follows:

(1) In SECTION 3 of the bill, in the recital (page 2, line 8), strike "adding Subsection (a-1)" and substitute "amending Subsection (a) and adding Subsections (a-1) and (c)".

(2) In SECTION 3 of the bill, between the recital and added Subsection (a-1), Section 209.005, Property Code (page 2, between lines 8 and 9), insert the following:

(a) A property owners' association shall make the books and records of the association, including financial records, reasonably available to an owner in accordance with Section B, Article 2.23, Texas Non-Profit Corporation Act (Article 1396-2.23, Vernon's Texas Civil Statutes), or a successor to that statute.

(3) In SECTION 3 of the bill, after added Subsection (a-1), Section 209.005, Property Code (page 2, between lines 15 and 16), insert the following:

(c) If a property owners' association fails to comply with this section, an owner may seek one or more of the following remedies:

(1) a court order directing the property owners' association to provide the required information;

(2) a judgment against the property owners' association for a penalty of not more than \$1,500;

(3) a judgment against the property owners' association for court costs and attorney's fees incurred in connection with seeking a remedy under this section; or

(4) a judgment authorizing the owner or the owner's assignee to deduct the amounts awarded under Subdivisions (2) and (3) from any future regular or special assessments payable to the property owners' association.

(4) In SECTION 6 of the bill, insert the following appropriately lettered subsections and reletter existing subsections of that SECTION accordingly:

() Subsection (a), Section 5.006, Property Code, as amended by this Act, and the repeal by this Act of Subsection (c), Section 202.004, Property Code, apply only to an action filed on or after the effective date of this Act. An action filed before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

() Section 5.012, Property Code, as amended by this Act, applies only to a sale of property that occurs on or after the effective date of this Act. For the purposes of this section, a sale of property occurs before the effective date of this Act if the executory contract binding the purchaser to purchase the property is executed before that date. A sale of property that occurs before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

() Sections 202.008, 202.010, 209.0043, and Subsection (a), Section 209.0044, Property Code, as added by this Act, apply to a deed restriction enacted before, on, or after the effective date of this Act.

() Sections 209.0061, 209.0062, and 209.0064, Property Code, as added by this Act, apply only to an assessment or other debt that becomes due on or after the effective date of this Act. An assessment or other debt that becomes due 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 209.0063, Property Code, as added by this Act, applies only to a payment received by a property owners' association on or after the effective date of this Act. A payment received by a property owners' association 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 209.0091, Property Code, as added by this Act, applies only to foreclosure of a lien that attaches on or after the effective date of this Act. Foreclosure of a lien that attaches before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

(5) Insert the following appropriately numbered SECTIONS and renumber existing SECTIONS of the bill accordingly:

SECTION ____. Subsection (a), Section 5.006, Property Code, is amended to read as follows:

(a) In an action based on breach of a restrictive covenant pertaining to real property, the court shall allow to a prevailing party [~~who asserted the action~~] reasonable attorney's fees in addition to the party's costs and claim.

SECTION ____. Section 5.012, Property Code, is amended by amending Subsection (a) and adding Subsections (f) and (g) to read as follows:

(a) A seller of residential real property that is subject to membership in a property owners' association and that comprises not more than one dwelling unit located in this state shall give to the purchaser of the property a written notice that reads substantially similar to the following:

NOTICE OF MEMBERSHIP IN PROPERTY OWNERS' ASSOCIATION
CONCERNING THE PROPERTY AT (street address) (name of residential
community)

As a purchaser of property in the residential community in which this property is located, you are obligated to be a member of a property owners' association. Restrictive covenants governing the use and occupancy of the property and a dedicatory instrument governing the establishment, maintenance, and operation of this residential community have been or will be recorded in the Real Property Records of the county in which the property is located. Copies of the restrictive covenants and dedicatory instrument may be obtained from the county clerk.

You are obligated to pay assessments to the property owners' association. The amount of the assessments is subject to change. Your failure to pay the assessments could result in a lien on and the foreclosure of your property.

Section 207.003, Property Code, entitles an owner to receive copies of restrictions, bylaws, and a resale certificate from a property owners' association. A resale certificate contains information including, but not limited to, statements specifying the amount and frequency of regular assessments, the property owners'

association's operating budget and balance sheet, and the style and cause number of lawsuits to which the property owners' association is a party. These documents must be made available to you by the seller on your request.

Date: _____

Signature of Purchaser

(f) On the purchaser's request for a resale certificate from the seller, the seller shall:

(1) promptly deliver a copy of a current resale certificate if one has been issued for the property under Chapter 207; or

(2) if the seller does not have a current resale certificate:

(A) request the property owners' association or its agent to issue a resale certificate under Chapter 207; and

(B) promptly deliver a copy of the resale certificate to the purchaser on receipt of the resale certificate from the property owners' association or its agent.

(g) The seller or the purchaser, as agreed to by the parties, shall pay the fee to the property owners' association or its agent for issuing the resale certificate under Chapter 207.

SECTION ____. Chapter 202, Property Code, is amended by adding Sections 202.008 and 202.010 to read as follows:

Sec. 202.008. RIGHT OF FIRST REFUSAL PROHIBITED. (a) In this section, "development period" means a period stated in a declaration during which a declarant reserves:

(1) a right to facilitate the development, construction, and marketing of the subdivision;

(2) a right to direct the size, shape, and composition of the subdivision; or

(3) any other right customarily reserved by a declarant for the benefit of developers and builders.

(b) To the extent a restrictive covenant provides a right of first refusal for the sale or lease of a residential unit or residential lot in favor of the property owners' association or the association's members, the covenant is void.

(c) This section does not apply to a restrictive covenant that provides a right of first refusal in favor of a developer or builder during the development period.

Sec. 202.010. REGULATION OF SOLAR ENERGY DEVICES. (a) In this section, "solar energy device" has the meaning assigned by Section 171.107, Tax Code.

(b) Except as otherwise provided by this section, 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) This section does not prohibit the inclusion or enforcement of a provision in a dedicatory instrument that prohibits a solar energy device that:

(1) threatens the public health or safety;

(2) violates a law;

(3) is located on property owned or maintained by the property owners' association;

(4) is located on property owned in common by the members of the property owners' association;

(5) is located in an area on the property owner's property other than:

(A) on the roof of the home; or

(B) in a fenced yard or patio maintained by the property owner; or

(6) is mounted on a device that is taller or more visually obtrusive than is necessary for the solar energy device to operate at not less than 90 percent of its rated efficiency.

SECTION _____. Subsection (b), Section 207.003, Property Code, is amended to read as follows:

(b) A resale certificate under Subsection (a) must contain:

(1) a statement of any right of first refusal or other restraint contained in the restrictions or restrictive covenants that restricts the owner's right to transfer the owner's property;

(2) the frequency and amount of any regular assessments;

(3) the amount of any special assessment that is due after the date the resale certificate is prepared;

(4) the total of all amounts due and unpaid to the property owners' association that are attributable to the owner's property;

(5) capital expenditures, if any, approved by the property owners' association for the property owners' association's current fiscal year;

(6) the amount of reserves, if any, for capital expenditures;

(7) the property owners' association's current operating budget and balance sheet;

(8) the total of any unsatisfied judgments against the property owners' association;

(9) the style and cause number of any pending lawsuit in which the property owners' association is a party, other than a lawsuit relating to unpaid property taxes of an individual member of the association ~~[defendant]~~;

(10) a copy of a certificate of insurance showing the property owners' association's property and liability insurance relating to the common areas and common facilities;

(11) a description of any conditions on the owner's property that the property owners' association board has actual knowledge are in violation of the restrictions applying to the subdivision or the bylaws or rules of the property owners' association;

(12) a summary or copy of notices received by the property owners' association from any governmental authority regarding health or housing code violations existing on the preparation date of the certificate relating to the owner's property or any common areas or common facilities owned or leased by the property owners' association;

(13) the amount of any administrative transfer fee charged by the property owners' association for a change of ownership of property in the subdivision;

(14) the name, mailing address, and telephone number of the property owners' association's managing agent, if any; ~~[and]~~

(15) a statement indicating whether the restrictions allow foreclosure of a property owners' association's lien on the owner's property for failure to pay assessments; and

(16) a statement of all fees associated with the transfer of ownership, including a description of each fee, to whom each fee is paid, and the amount of each fee.

SECTION ____. Chapter 209, Property Code, is amended by adding Sections 209.0041 through 209.0044 to read as follows:

Sec. 209.0041. AMENDMENT OF DECLARATION. (a) This section applies only to a residential subdivision in which property owners are subject to mandatory regular or special assessments.

(b) This section applies to a declaration regardless of the date on which the declaration was created.

(c) This section does not apply to the amendment of a declaration during a development period, as defined by Section 202.008.

(d) To the extent of any conflict with another provision of this title, this section prevails.

(e) Unless a declaration creating a residential subdivision provides a lower percentage, the declaration and any subsequently enacted declarations may be amended on a vote of 67 percent of the total votes allocated to owners of property in the subdivision. If the declaration provides a lower percentage, the percentage in the declaration controls.

(f) All ballots cast in an election that results in the amendment of a declaration under this section shall be deposited in the county clerk's office of each county in which the declaration is recorded and are subject to inspection by the public. A county clerk shall retain ballots deposited with the clerk under this subsection until the fourth anniversary of the date the ballots were deposited. A county clerk may not charge a fee for the deposit of ballots under this subsection.

Sec. 209.0042. TABULATION OF VOTES. (a) In any matter subject to a vote of the members of the property owners' association, the association shall utilize a neutral third party to tabulate the votes:

(1) if the association schedules the election with less than 30 days' notice; or

(2) for an election scheduled with notice of 30 days or more, if the association receives written requests from at least 25 percent of the owners of property in the subdivision or 50 owners of property in the subdivision, whichever is less:

(A) at least 10 days before the date of the meeting at which the vote will be taken; or

(B) if no meeting is to be held, at least 10 days before the deadline to cast a vote.

(b) For the purposes of this section, a person is considered a neutral third party if the person is anyone other than a candidate for office, a current or former member or officer of the board of directors, an attorney who represents the property owners' association, or a representative of the association's management company, or a person related to one of those persons within the second degree by consanguinity or affinity, as determined under Chapter 573, Government Code.

(c) This section does not apply to a property owners' association if:

(1) membership in the property owners' association is mandatory for owners or for a defined class of owners of private real property in a defined geographic area in a county with a population of 2.8 million or more or in a county adjacent to a county with a population of 2.8 million or more;

(2) the property owners' association has the power to make mandatory special assessments for capital improvements or mandatory regular assessments; and

(3) the amount of the mandatory special or regular assessments is or has ever been based in whole or in part on the value at which the state or a local governmental body assesses the property for purposes of ad valorem taxation under Section 20, Article VIII, Texas Constitution.

Sec. 209.0043. RIGHT TO VOTE. A provision of a dedicatory instrument that would disqualify a property owner from voting in an association election of board members or on any matter concerning the rights or responsibilities of the owner is void.

Sec. 209.0044. BOARD MEMBERSHIP. (a) A provision of a dedicatory instrument that restricts a property owner's right to run for a position on the board of the property owners' association is void.

(b) A property owners' association board may make information available to members of the association regarding a candidate for a position on the board regarding:

(1) any amount owed to the association by the candidate that is six months or more overdue;

(2) any violation of a restrictive covenant of which notice was delivered to a board candidate under Section 209.006 more than 30 days before the date of the election; and

(3) any lawsuits to which both the property owners' association or any of its directors or agents and the board candidate are a party.

SECTION ____. Section 209.006, Property Code, is amended by amending Subsection (b) and adding Subsections (c) and (d) to read as follows:

(b) The notice must:

(1) describe the violation or property damage that is the basis for the suspension action, charge, or fine and state any amount due the association from the owner; ~~and~~

(2) inform the owner that the owner:

(A) is entitled to a reasonable period to cure the violation and avoid the fine or suspension unless the owner was given notice and a reasonable opportunity to cure a similar violation within the preceding six months; and

(B) may request a hearing under Section 209.007 on or before the 30th day after the date notice was delivered to the owner; and

(3) specify a date certain by which the owner must cure the violation ~~[receives the notice].~~

(c) Notice under Subsection (b) must be personally delivered, sent by certified mail with a return receipt requested, or delivered by the United States Postal Service with signature confirmation service to the owner at the owner's last known address as shown on the association's records.

(d) The date specified in the notice under Subsection (b)(3) must provide a reasonable period for the owner to cure the violation.

SECTION ____. Chapter 209, Property Code, is amended by adding Sections 209.0061 through 209.0064 and Section 209.0091 to read as follows:

Sec. 209.0061. ASSESSMENT OF FINES. (a) A fine assessed by the property owners' association must be reasonable in the context of the nature, frequency, and effect of the violation. If the association allows fines for a continuing violation to accumulate against a lot or an owner, the association must establish a maximum fine amount for a continuing violation, at which point the total fine amount is capped.

(b) If a lot occupant other than the owner violates a provision of the dedicatory instrument, the property owners' association, in addition to exercising any of the association's powers against the owner, may assess a fine directly against the nonowner occupant in the same manner as provided for an owner but may not require payment from both the owner and a nonowner occupant for the same violation.

(c) Sections 209.006 and 209.007 apply to a nonowner occupant.

Sec. 209.0062. ALTERNATIVE PAYMENT SCHEDULE FOR CERTAIN ASSESSMENTS. (a) A property owners' association shall adopt reasonable guidelines to establish an alternative payment schedule by which an owner may make partial payments to the property owners' association for delinquent regular or special assessments or any other amount owed to the association.

(b) A property owners' association is not required to allow a payment plan that extends more than 12 months from the date of the owner's request for a payment plan or to enter into a payment plan with an owner who failed to honor the terms of a previous payment plan.

(c) The property owners' association shall file the association's guidelines under this section in the real property records of each county in which the subdivision is located.

Sec. 209.0063. PRIORITY OF PAYMENTS. Unless otherwise provided in a writing by the property owner, a payment received by a property owners' association from the owner shall be applied to the owner's debt in the following order of priority:

(1) any delinquent assessment;

(2) any current assessment;

(3) any attorney's fees incurred by the association associated solely with assessments or any other charge that could provide the basis for foreclosure;

(4) any fines assessed by the association;

(5) any attorney's fees incurred by the association that are not subject to Subdivision (3); and

(6) any other amount owed to the association.

Sec. 209.0064. COLLECTIONS. A property owners' association must bring suit or otherwise initiate against an owner a collection action authorized by the dedicatory instruments or other law on or before the 10th anniversary of the date on which the cause of action for collection of the debt accrues. Section 16.004, Civil Practice and Remedies Code, does not apply to the collection of a debt owed by an owner to a property owners' association.

Sec. 209.0091. JUDICIAL FORECLOSURE REQUIRED. (a) Except as provided by Subsection (b), a property owners' association may not foreclose a property owners' association's assessment lien unless the association first obtains a court judgment foreclosing the lien and providing for issuance of an order of sale.

(b) Judicial foreclosure is not required under this section if the owner of the property that is subject to foreclosure agrees in writing to waive judicial foreclosure under this section.

SECTION ___. Subsection (a), Section 209.010, Property Code, is amended to read as follows:

(a) A property owners' association that conducts a foreclosure sale of an owner's lot must send to the lot owner not later than the 30th day after the date of the foreclosure sale:

(1) a written notice stating the date and time the sale occurred and informing the lot owner of the owner's right to redeem the property under Section 209.011; and

(2) a copy of Section 209.011.

SECTION ___. Subsection (a), Section 211.002, Property Code, is amended to read as follows:

(a) This chapter applies only to a residential real estate subdivision or any unit or parcel of a subdivision to which another chapter in this title that provides a procedure under which a subdivision's restrictions may be amended does not apply ~~[located in whole or in part within an unincorporated area of a county if the county has a population of less than 65,000].~~

SECTION ___. Subsection (c), Section 202.004, Property Code, is repealed.

The amendment to **HB 3674** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2.

Senator Jackson offered the following amendment to the bill:

Floor Amendment No. 3

Amend **HB 3674** by adding the following appropriately numbered SECTIONS and renumbering subsequent SECTIONS accordingly:

SECTION ___. Section 201.001(b), Property Code, is amended to read as follows:

(b) The provisions of this chapter relating to extension of the term of, renewal of, or creation of restrictions do not apply to a subdivision if, by the express terms of the instrument creating existing restrictions, some or all of the restrictions affecting the real property within the subdivision provide:

(1) for automatic extensions of the term of the restrictions for an indefinite number of successive specified periods of at least 10 years subject to a right of waiver or termination, in whole or in part, by a specified percentage of less than 50 percent plus one of the owners of real property interests in the subdivision, as set forth in the instrument creating the restrictions; or

(2) for an indefinite number of successive extensions of at least 10 years of the term of the restrictions by written and filed agreement of a specified percentage of less than 50 percent plus one of the owners of real property interests in the subdivision, as authorized by the instrument creating the restrictions.

SECTION __. Section 201.004(a), Property Code, is amended to read as follows:

(a) A petition may be filed under this chapter to:

(1) extend or renew an unexpired restriction;

(2) ~~[-to]~~ create a restriction;

(3) ~~[-or to]~~ add to or modify an existing restriction; or

(4) modify an existing provision in an instrument creating a restriction that provides for extension of those restrictions.

SECTION __. Section 204.003, Property Code, is amended to read as follows:

Sec. 204.003. APPLICATION OF PROVISIONS OF RESTRICTIVE COVENANTS ~~[PREVAIL]~~ IN CERTAIN CIRCUMSTANCES. (a) An express designation in a document creating restrictions applicable to a residential real estate subdivision that provides for the extension of, addition to, or modification of existing restrictions by a designated number of owners of real property in the subdivision prevails over the provisions of this chapter.

(b) A document creating restrictions that provides for the extension or renewal of restrictions and does not provide for modification or amendment of restrictions may be modified under this chapter, including modifying the provision that provides for extension or renewal of the restrictions.

The amendment to **HB 3674** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 3.

On motion of Senator Jackson and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 3674 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 3674 ON THIRD READING

Senator Jackson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3674** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

May 23, 2007

The Honorable President of the Senate
Senate Chamber
Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

SB 6, Relating to the apprehension, prosecution, and punishment of individuals committing or attempting to commit certain sex offenses.

(Amended)

SB 8, Relating to random testing of certain public school students for steroid use.

(Committee Substitute/Amended)

SB 27, Relating to a pilot program to educate residents and families of residents of nursing homes and intermediate care facilities for the mentally retarded about advance care planning.

(Amended)

SB 74, Relating to the creation of an address confidentiality program to assist victims of family violence, sexual assault, or stalking in maintaining confidential addresses.

(Amended)

SB 131, Relating to the creation of nursing home family councils.

(Committee Substitute)

SB 141, Relating to a feasibility study regarding joint health science courses at a public or private institution of higher education.

(Amended)

SB 282, Relating to notice regarding the availability of programs under which a student may earn college credit in public schools.

(Amended)

SB 560, Relating to reimbursement for jury service.

(Committee Substitute/Amended)

SB 589, Relating to Temporary Assistance for Needy Families (TANF) employment programs and participation in those programs by certain parents who are not TANF recipients.

SB 653, Relating to filling certain vacancies on the governing bodies of municipalities.

SB 718, Relating to the route selection for the Trans-Texas Corridor.

(Committee Substitute)

SB 776, Relating to certain educational requirements applicable to the regulation of the practice of chiropractic.

(Committee Substitute)

SB 839, Relating to the exchange of information among agencies related to the Texas Correctional Office on Offenders with Medical or Mental Impairments and the agencies responsible for continuity of care for offenders in the criminal justice system who are physically disabled, terminally ill, or significantly ill; providing a criminal penalty.

(Amended)

SB 1232, Relating to the manner of payment of higher education tuition and fees and to the repayment of emergency student loans.
(Committee Substitute/Amended)

SB 1339, Relating to allowing money in the disaster contingency fund to be used to provide assistance to producers of agricultural products affected by a disaster caused by severe drought or wildfire.
(Amended)

SB 1531, Relating to disposing of salvage or surplus personal property and purchasing by navigation districts.
(Amended)

SB 1613, Relating to the liability and indemnification of directors of soil and water conservation districts.
(Amended)

SB 1619, Relating to the confidentiality of certain employment information, including unemployment compensation information; providing criminal penalties.

SB 1640, Relating to the student loan program administered by the Texas Higher Education Coordinating Board; authorizing the issuance of bonds.
(Amended)

SB 1788, Relating to the creation and operation of a state virtual school network to provide education to students through electronic means.
(Amended)

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

HOUSE BILL 1775 ON SECOND READING

On motion of Senator Zaffirini and by unanimous consent, Senate Rule 5.14(a) and the regular order of business were suspended to take up for consideration **HB 1775** at this time on its second reading:

HB 1775, Relating to authorizing the issuance of revenue bonds for the expansion of school of nursing facilities at Stephen F. Austin State University.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 1775 ON THIRD READING

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1775** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE
HOUSE BILL 3692 ON SECOND READING**

On motion of Senator Wentworth and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 3692** at this time on its second reading:

CSHB 3692, Relating to the denial or revocation of bail for a person who violates certain court orders or conditions of bond related to victim or community safety.

The bill was read second time.

Senator Uresti offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 3692** by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION ____. Article 45.049 Code of Criminal Procedure, is amended by adding Subsections (g) and (h) to read as follows:

(g) This subsection applies only to a defendant who is charged with a traffic offense or an offense under Section 106.05, Alcoholic Beverage Code, and is a resident of this state. If under Article 45.051(b)(10), Code of Criminal Procedure, the judge requires the defendant to perform community service as a condition of the deferral, the defendant is entitled to elect whether to perform the required governmental entity or nonprofit organization community service in:

(1) the county in which the court is located; or

(2) the county in which the defendant resides, but only if the entity or organization agrees to:

(A) supervise the defendant in the performance of the defendant's community service work; and

(B) report to the court on the defendant's community service work.

(h) This subsection applies only to a defendant charged with an offense under Section 106.05, Alcoholic Beverage Code, who, under Subsection (g), elects to perform the required community service in the county in which the defendant resides. The community service must comply with Sections 106.071(d) and (e), Alcoholic Beverage Code, except that if the educational programs or services described by Section 106.071(e) are not available in the county of the defendant's residence, the court may order community service that it considers appropriate for rehabilitative purposes.

SECTION ____. The changes made to Article 45.049, Code of Criminal Procedure, by this Act take effect September 1, 2007.

The amendment to **CSHB 3692** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

On motion of Senator Wentworth and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSHB 3692 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

**COMMITTEE SUBSTITUTE
HOUSE BILL 3692 ON THIRD READING**

Senator Wentworth moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 3692** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 2207 ON SECOND READING

On motion of Senator Watson and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2207** at this time on its second reading:

HB 2207, Relating to the conveyance of certain residential real property encumbered by a lien.

The bill was read second time.

Senator Lucio offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 2207** (Senate committee printing) as follows:

(1) In SECTION 1 of the bill, in the recital (page 1, line 12), strike "Section 5.016" and substitute "Sections 5.016 and 5.019".

(2) In SECTION 1 of the bill, immediately following added Section 5.016, Property Code (page 2, between lines 25 and 26), insert the following:

Sec. 5.019. ANNUAL ACCOUNTING STATEMENTS REQUIRED FOR SELLER-FINANCED SALES OF RESIDENTIAL REAL PROPERTY. (a) This section applies only to a seller of residential real property who finances the sale of residential real property owned by the seller by delivering title to the property to the purchaser in exchange for an agreement by the purchaser to pay the purchase price to the seller by periodic installments.

(b) A seller who enters into a transaction described by Subsection (a) shall provide the purchaser with an annual accounting statement in January of each year until the property is fully paid for by the purchaser. If the seller mails the statement to the purchaser, the statement must be postmarked not later than January 31.

(c) The statement required by Subsection (b) must include the following information:

(1) the total amount paid by the purchaser toward the price of the residential real property;

(2) the remaining amount owed to the seller;

(3) the number of payments remaining; and

(4) the amounts paid to taxing authorities on the purchaser's behalf if collected by the seller.

(d) A seller must provide, at no cost to the purchaser, a written statement of the amount of the purchase price still owed by the purchaser not later than the 10th day after the date the purchaser makes a written request for the statement if that request is the only request the purchaser has made for a statement of the amount of the purchase price still owed by the purchaser in the month in which the request is made.

(e) Except as provided by Subsection (f), a seller who fails to comply with Subsection (b) is liable to the purchaser for:

(1) actual damages;

(2) additional damages in the amount of \$500 for each annual statement the seller fails to provide to the purchaser within the time required by Subsection (b); and

(3) reasonable attorney's fees.

(f) A seller who does not conduct two or more transfers in a 12-month period that are subject to this section and who fails to comply with Subsection (b) is liable to the purchaser for:

(1) a civil penalty in the amount of \$100 for each annual statement the seller fails to provide to the purchaser within the time required by Subsection (b); and

(2) reasonable attorney's fees.

(g) A seller who fails to comply with Subsection (d) is liable to the purchaser for:

(1) actual damages;

(2) additional damages in the amount of \$100 for each statement the seller fails to provide to the purchaser within the time required by Subsection (d); and

(3) reasonable attorney's fees.

(h) A purchaser may deduct an amount owed to the purchaser by the seller under Subsection (e), (f), or (g).

(i) A seller who fails to comply with Subsection (b) after receiving a written notice from the purchaser of the seller's violation may not controvert a sworn statement from the purchaser regarding a fact required to be reflected in the statement.

(j) An agreement that purports to waive a right or exempt a party from a liability or duty under this section is void and unenforceable.

(k) This section does not apply to a transfer:

(1) pursuant to a court order or foreclosure sale;

(2) by a trustee in bankruptcy;

(3) to a mortgagee by a mortgagor or successor in interest or to a beneficiary of a deed of trust by a trustor or successor in interest;

(4) by a mortgagee or a beneficiary under a deed of trust who has acquired the real property at a sale conducted pursuant to a power of sale under a deed of trust or a sale pursuant to a court-ordered foreclosure or has acquired the real property by a deed in lieu of foreclosure;

(5) by a fiduciary in the course of the administration of a decedent's estate, guardianship, conservatorship, or trust;

(6) from one co-owner to one or more other co-owners;

(7) made to a spouse or to a person or persons in the lineal line of consanguinity of one or more of the transferors;

(8) between spouses resulting from a decree of dissolution of marriage or a decree of legal separation or from a property settlement agreement incidental to such a decree; or

(9) to or from any governmental entity.

(3) Strike SECTION 2 of the bill (page 2, lines 26-32) and substitute the following:

SECTION 2. (a) Except as provided by this section, this Act applies only to a transfer of property that occurs or a contract entered into on or after the effective date of this Act. A transfer that occurs or a contract entered into 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.

(b) Section 5.019, Property Code, as added by this Act, applies to a financing agreement entered into before, on, or after the effective date of this Act.

The amendment to **HB 2207** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

Senator Watson offered the following amendment to the bill:

Floor Amendment No. 2

Amend **HB 2207** (Senate committee printing) as follows:

(1) In SECTION 1 of the bill, in the recital (page 1, line 12), strike "Section 5.016" and substitute "Sections 5.016 and 5.017".

(2) In SECTION 1 of the bill, after added Section 5.016, Property Code (page 2, between lines 25 and 26), insert the following:

Sec. 5.017. FEE FOR FUTURE CONVEYANCE OF RESIDENTIAL REAL PROPERTY AND RELATED LIEN PROHIBITED. (a) In this section, "property owners' association" has the meaning assigned by Section 209.002.

(b) A deed restriction or other covenant running with the land applicable to the conveyance of residential real property that requires a transferee of residential real property or the transferee's heirs, successors, or assigns to pay a declarant or other person imposing the deed restriction or covenant on the property or a third party designated by a transferor of the property a fee in connection with a future transfer of the property is prohibited. A deed restriction or other covenant running with the land that violates this section or a lien purporting to encumber the land to secure a right under a deed restriction or other covenant running with the land that violates this section is void and unenforceable. For purposes of this section, a conveyance of real property includes a conveyance or other transfer of an interest or estate in residential real property.

(c) This section does not apply to a deed restriction or other covenant running with the land that requires a fee associated with the conveyance of property in a subdivision that is payable to:

(1) a property owners' association that manages or regulates the subdivision or the association's managing agent if the subdivision contains more than one platted lot;

(2) an entity organized under Section 501(c)(3), Internal Revenue Code of 1986; or

(3) a governmental entity.

The amendment to **HB 2207** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2.

On motion of Senator Watson and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 2207 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 2207 ON THIRD READING

Senator Watson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2207** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 2532 ON SECOND READING

On motion of Senator Shapiro and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2532** at this time on its second reading:

HB 2532, Relating to the expulsion and placement in alternative settings of public school students who engage in conduct constituting certain felonies.

The bill was read second time.

Senator Shapiro offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 2532** (Senate committee printing) as follows:

(1) Immediately following SECTION 1 of the bill (page 2, between lines 35 and 36), insert the following appropriately numbered SECTIONS:

SECTION __. Chapter 37, Education Code, is amended by adding Subchapter I to read as follows:

SUBCHAPTER I. PLACEMENT OF REGISTERED SEX OFFENDERS

Sec. 37.301. DEFINITION. In this subchapter, "board of trustees" includes the board's designee.

Sec. 37.302. APPLICABILITY. This subchapter:

(1) applies to a student who is required to register as a sex offender under Chapter 62, Code of Criminal Procedure; and

(2) does not apply to a student who is no longer required to register as a sex offender under Chapter 62, Code of Criminal Procedure, including a student who receives an exemption from registration under Subchapter H, Chapter 62, Code of Criminal Procedure, or a student who receives an early termination of the obligation to register under Subchapter I, Chapter 62, Code of Criminal Procedure.

Sec. 37.303. REMOVAL OF REGISTERED SEX OFFENDER FROM REGULAR CLASSROOM. Notwithstanding any provision of Subchapter A, on receiving notice under Article 15.27, Code of Criminal Procedure, or Chapter 62, Code of Criminal Procedure, that a student is required to register as a sex offender under that chapter, a school district shall remove the student from the regular classroom and determine the appropriate placement of the student in the manner provided by this subchapter.

Sec. 37.304. PLACEMENT OF REGISTERED SEX OFFENDER WHO IS UNDER COURT SUPERVISION. (a) A school district shall place a student to whom this subchapter applies and who is under any form of court supervision, including probation, community supervision, or parole, in the appropriate alternative education program as provided by Section 37.309 for at least one semester.

(b) If a student transfers to another school district during the student's mandatory placement in an alternative education program under Subsection (a), the district to which the student transfers may:

(1) require the student to complete an additional semester in the appropriate alternative education program without conducting a review of the student's placement for that semester under Section 37.306; or

(2) count any time spent by the student in an alternative education program in the district from which the student transfers toward the mandatory placement requirement under Subsection (a).

Sec. 37.305. PLACEMENT OF REGISTERED SEX OFFENDER WHO IS NOT UNDER COURT SUPERVISION. A school district may place a student to whom this subchapter applies and who is not under any form of court supervision in the appropriate alternative education program as provided by Section 37.309 for one semester or in the regular classroom. The district may not place the student in the regular classroom if the district board of trustees determines that the student's presence in the regular classroom:

(1) threatens the safety of other students or teachers;

(2) will be detrimental to the educational process; or

(3) is not in the best interests of the district's students.

Sec. 37.306. REVIEW OF PLACEMENT IN ALTERNATIVE EDUCATION PROGRAM. (a) At the end of the first semester of a student's placement in an alternative education program under Section 37.304 or 37.305, the school district board of trustees shall convene a committee to review the student's placement in the alternative education program. The committee must be composed of:

(1) a classroom teacher from the campus to which the student would be assigned were the student not placed in an alternative education program;

(2) the student's parole or probation officer or, in the case of a student who does not have a parole or probation officer, a representative of the local juvenile probation department;

(3) an instructor from the alternative education program to which the student is assigned;

(4) a school district designee selected by the board of trustees; and

(5) a counselor employed by the school district.

(b) The committee by majority vote shall determine and recommend to the school district board of trustees whether the student should be returned to the regular classroom or remain in the alternative education program.

(c) If the committee recommends that the student be returned to the regular classroom, the board of trustees shall return the student to the regular classroom unless the board determines that the student's presence in the regular classroom:

(1) threatens the safety of other students or teachers;

(2) will be detrimental to the educational process; or

(3) is not in the best interests of the district's students.

(d) If the committee recommends that the student remain in the alternative education program, the board of trustees shall continue the student's placement in the alternative education program unless the board determines that the student's presence in the regular classroom:

(1) does not threaten the safety of other students or teachers;

(2) will not be detrimental to the educational process; and

(3) is not contrary to the best interests of the district's students.

(e) If, after receiving a recommendation under Subsection (b), the school district board of trustees determines that the student should remain in an alternative education program, the board shall before the beginning of each school year convene the committee described by Subsection (a) to review, in the manner provided by Subsections (b), (c), and (d), the student's placement in an alternative education program.

Sec. 37.307. PLACEMENT AND REVIEW OF STUDENT WITH DISABILITY. (a) The placement under this subchapter of a student with a disability who receives special education services must be made in compliance with the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.).

(b) The review under Section 37.306 of the placement of a student with a disability who receives special education services may be made only by a duly constituted admission, review, and dismissal committee. The admission, review, and dismissal committee may request that the board of trustees convene a committee described by Section 37.306(a) to assist the admission, review, and dismissal committee in conducting the review.

Sec. 37.308. TRANSFER OF REGISTERED SEX OFFENDER. Except as provided by Section 37.304(b), a school district shall determine whether to place a student to whom this subchapter applies and who transfers to the district in the appropriate alternative education program as provided by Section 37.309 or in a regular classroom. The school district shall follow the procedures specified under Section 37.306 in making the determination.

Sec. 37.309. PLACEMENT IN DISCIPLINARY ALTERNATIVE EDUCATION PROGRAM OR JUVENILE JUSTICE ALTERNATIVE EDUCATION PROGRAM. (a) Except as provided by Subsection (b), a school

district shall place a student who is required by the board of trustees to attend an alternative education program under this subchapter in a disciplinary alternative education program.

(b) A school district shall place a student who is required by the board of trustees to attend an alternative education program under this subchapter in a juvenile justice alternative education program if:

(1) the memorandum of understanding entered into between the school district and juvenile board under Section 37.011(k) provides for the placement of students to whom this subchapter applies in the juvenile justice alternative education program; or

(2) a court orders the placement of the student in a juvenile justice alternative education program.

Sec. 37.310. FUNDING FOR REGISTERED SEX OFFENDER PLACED IN JUVENILE JUSTICE ALTERNATIVE EDUCATION PROGRAM. A juvenile justice alternative education program is entitled to funding for a student who is placed in the program under this subchapter in the same manner as a juvenile justice alternative education program is entitled to funding under Section 37.012 for a student who is expelled and placed in a juvenile justice alternative education program for conduct for which expulsion is permitted but not required under Section 37.007.

Sec. 37.311. CONFERENCE. (a) A student or the student's parent or guardian may appeal a decision by a school district board of trustees to place the student in an alternative education program under this subchapter by requesting a conference among the board of trustees, the student's parent or guardian, and the student. The conference is limited to the factual question of whether the student is required to register as a sex offender under Chapter 62, Code of Criminal Procedure.

(b) If the school district board of trustees determines at the conclusion of the conference that the student is required to register as a sex offender under Chapter 62, Code of Criminal Procedure, the student is subject to placement in an alternative education program in the manner provided by this subchapter.

(c) A decision by the board of trustees under this section is final and may not be appealed.

Sec. 37.312. LIABILITY. This subchapter does not:

(1) waive any liability or immunity of a governmental entity or its officers or employees; or

(2) create any liability for or a cause of action against a governmental entity or its officers or employees.

Sec. 37.313. CONFLICTS OF LAW. To the extent of any conflict between a provision of this subchapter and a provision of Subchapter A, this subchapter prevails.

SECTION __. Article 15.27, Code of Criminal Procedure, is amended by amending Subsections (b) and (c) and adding Subsections (a-1) and (j) to read as follows:

(a-1) The superintendent or a person designated by the superintendent in the school district may send to a school district employee having direct supervisory responsibility over the student the information contained in the confidential notice

under Subsection (a) if the superintendent or the person designated by the superintendent determines that the employee needs the information for educational purposes or for the protection of the person informed or others.

(b) On conviction, deferred prosecution, or deferred adjudication or an adjudication of delinquent conduct of an individual enrolled as a student in a public primary or secondary school, for an offense or for any conduct listed in Subsection (h) of this article, the office of the prosecuting attorney acting in the case shall orally notify the superintendent or a person designated by the superintendent in the school district in which the student is enrolled of the conviction or adjudication and whether the student is required to register as a sex offender under Chapter 62. Oral notification must be given within 24 hours of the time of the order or on the next school day. The superintendent shall, within 24 hours of receiving notification from the office of the prosecuting attorney, ~~promptly~~ notify all instructional and support personnel who have regular contact with the student. Within seven days after the date the oral notice is given, the office of the prosecuting attorney shall mail written notice, which must contain a statement of the offense of which the individual is convicted or on which the adjudication, deferred adjudication, or deferred prosecution is grounded and a statement of whether the student is required to register as a sex offender under Chapter 62.

(c) A parole, ~~or~~ probation, or community supervision office, including a community supervision and corrections department, a juvenile probation department, the paroles division of the Texas Department of Criminal Justice, and the Texas Youth Commission, having jurisdiction over a student described by Subsection (a), (b), or (e) who transfers from a school or is subsequently removed from a school and later returned to a school or school district other than the one the student was enrolled in when the arrest, referral to a juvenile court, conviction, or adjudication occurred shall within 24 hours of learning of the student's transfer or reenrollment notify the new school officials of the arrest or referral in a manner similar to that provided for by Subsection (a) or (e)(1), or of the conviction or delinquent adjudication in a manner similar to that provided for by Subsection (b) or (e)(2). The new school officials shall, within 24 hours of receiving notification under this subsection, ~~promptly~~ notify all instructional and support personnel who have regular contact with the student.

(j) The notification provisions of this section concerning a person who is required to register as a sex offender under Chapter 62 do not lessen the requirement of a person to provide any additional notification prescribed by that chapter.

SECTION __. Subsection (d), Article 15.27, Code of Criminal Procedure, is repealed.

SECTION __. Subchapter I, Chapter 37, Education Code, as added by this Act, applies only to an offense committed on or after September 1, 2007. An offense committed before September 1, 2007, is governed by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before September 1, 2007, if any element of the offense occurred before that date.

(2) In SECTION 2(a) of the bill (page 2, line 36), strike "This Act" and substitute "Section 37.0081, Education Code, as amended by this Act,".

(3) Renumber the SECTIONS of the bill appropriately.

The amendment to **HB 2532** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

Senator West offered the following amendment to the bill:

Floor Amendment No. 2

Amend **HB 2532** by adding the following appropriately numbered SECTIONS and renumbering subsequent SECTIONS of the bill accordingly:

SECTION ____. Subchapter A, Chapter 37, Education Code, is amended by adding Section 37.0082 to read as follows:

Sec. 37.0082. ASSESSMENT OF ACADEMIC GROWTH OF STUDENTS IN DISCIPLINARY ALTERNATIVE EDUCATION PROGRAMS. (a) To assess a student's academic growth during placement in a disciplinary alternative education program, a school district shall administer to a student placed in a program for a period of 90 school days or longer an assessment instrument approved by the commissioner for that purpose. The instrument shall be administered:

(1) initially on placement of the student in the program; and

(2) subsequently on the date of the student's departure from the program, or as near that date as possible.

(b) The assessment instrument required by this section:

(1) must be designed to assess at least a student's basic skills in reading and mathematics;

(2) may be:

(A) comparable to any assessment instrument generally administered to students placed in juvenile justice alternative education programs for a similar purpose; or

(B) based on an appropriate alternative assessment instrument developed by the agency to measure student academic growth; and

(3) is in addition to the assessment instruments required to be administered under Chapter 39.

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

SECTION ____. (a) The Texas Education Agency shall explore alternative methods of evaluating the effectiveness of disciplinary alternative education programs. The alternative methods to be explored must include a method that includes, in addition to the indicator required under current law that is based on student performance on assessment instruments required under Sections 39.023(a) and (c), Education Code, indicators relating to student academic growth, course completion, and behavior improvement.

(b) Not later than November 1, 2008, the Texas Education Agency shall submit a report of its conclusions and recommendations resulting from the action required by Subsection (a) of this section to the presiding officers of the standing committees of the senate and house of representatives with primary jurisdiction over the public school system or the commitment and rehabilitation of youths.

The amendment to **HB 2532** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2.

On motion of Senator Shapiro and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 2532 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 2532 ON THIRD READING

Senator Shapiro moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2532** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 1267 ON SECOND READING

On motion of Senator Seliger and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1267** at this time on its second reading:

HB 1267, Relating to the compensation of counsel appointed to defend an indigent defendant in a criminal proceeding.

The bill was read second time.

Senator Seliger offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 1267** (Senate committee printing) by striking SECTIONS 1 and 2 and adding the following appropriately numbered SECTIONS:

SECTION __. Subsection (d), Article 26.052, Code of Criminal Procedure, as amended by Chapters 787 and 965, Acts of the 79th Legislature, Regular Session, 2005, is reenacted and amended to read as follows:

(d)(1) The committee shall adopt standards for the qualification of attorneys to be appointed to represent indigent defendants in capital cases in which the death penalty is sought.

(2) The standards must require that a trial attorney appointed as lead counsel to a capital case [~~or an attorney appointed as lead appellate counsel in the direct appeal of a capital case~~]:

(A) be a member of the State Bar of Texas;

(B) exhibit proficiency and commitment to providing quality representation to defendants in death penalty cases;

(C) have not been found by a federal or state court to have rendered ineffective assistance of counsel during the trial or appeal of any capital case, unless the conduct underlying the finding fails to accurately reflect the attorney's current ability to provide effective representation;

(D) have at least five years of criminal law experience [~~in criminal litigation~~];

(E) have tried to a verdict as lead defense counsel a significant number of felony cases, including homicide trials and other trials for offenses punishable as second or first degree felonies or capital felonies;

(F) have trial experience in:

(i) the use of and challenges to mental health or forensic expert witnesses; and

(ii) investigating and presenting mitigating evidence at the penalty phase of a death penalty trial; and

(G) have participated in continuing legal education courses or other training relating to criminal defense in death penalty cases.

(3) The standards must require that an attorney appointed as lead appellate counsel in the direct appeal of a capital case:

(A) be a member of the State Bar of Texas;

(B) exhibit proficiency and commitment to providing quality representation to defendants in death penalty cases;

(C) have not been found by a federal or state court to have rendered ineffective assistance of counsel during the trial or appeal of any capital case, unless the conduct underlying the finding fails to accurately reflect the attorney's current ability to provide effective representation;

(D) have at least five years of criminal law experience;

(E) have authored a significant number of appellate briefs, including appellate briefs for homicide cases and other cases involving an offense punishable as a capital felony or a felony of the first degree or an offense described by Section 3g(a)(1), Article 42.12;

(F) have trial or appellate experience in:

(i) the use of and challenges to mental health or forensic expert witnesses; and

(ii) the use of mitigating evidence at the penalty phase of a death penalty trial; and

(G) have participated in continuing legal education courses or other training relating to criminal defense in appealing death penalty cases.

(4) The committee shall prominently post the standards in each district clerk's office in the region with a list of attorneys qualified for appointment.

(5) [(4)] Not later than the second anniversary of the date an attorney is placed on the list of attorneys qualified for appointment in death penalty cases and each year following the second anniversary, the attorney must present proof to the committee that the attorney has successfully completed the minimum continuing legal education requirements of the State Bar of Texas, including a course or other form of training relating to criminal [~~the~~] defense in [~~of~~] death penalty cases or in appealing death penalty cases, as applicable. The committee shall remove the attorney's name from the list of qualified attorneys if the attorney fails to provide the committee with proof of completion of the continuing legal education requirements.

SECTION __. A local selection committee shall amend standards previously adopted by the committee to conform with the requirements of Subsection (d), Article 26.052, Code of Criminal Procedure, as amended by this Act, not later than the 75th day after the effective date of this Act. An attorney appointed to a death penalty case on or after the 75th day after the effective date of this Act must meet the standards adopted in conformity with amended Subsection (d), Article 26.052, Code of Criminal Procedure. An attorney appointed to a death penalty case before the 75th day after the effective date of this Act is covered by the law in effect when the attorney was appointed, and the former law is continued in effect for that purpose.

The amendment to **HB 1267** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 2

Amend **HB 1267** (Senate committee printing) as follows:

(1) Strike the recital to SECTION 1 of the bill (page 1, lines 11-12) and substitute the following:

SECTION 1. Article 26.05, Code of Criminal Procedure, is amended by amending Subsection (c) and adding Subsection (i) to read as follows:

(2) Immediately following the text of amended Subsection (c), Article 26.05, Code of Criminal Procedure (page 1, between lines 39 and 40), insert the following:

(c) The indigent defense representation fund is a separate account in the general revenue fund. The fund:

(1) consists of criminal fees collected under Section 133.107, Local Government Code; and

(2) may be used only for the purposes for which the fair defense account established under Section 71.058, Government Code, may be used, including compensating appointed counsel in accordance with this code.

SECTION 2. Subchapter B, Chapter 102, Government Code, is amended by adding Section 102.023 to read as follows:

Sec. 102.023. COURT COST ON CONVICTION: SUPPORT OF INDIGENT DEFENSE REPRESENTATION. A person convicted of any offense, other than an offense relating to a pedestrian or the parking of a motor vehicle, shall pay a cost on conviction of \$2 under Section 133.107, Local Government Code.

SECTION 3. Section 133.003, Local Government Code, is amended to read as follows:

Sec. 133.003. CRIMINAL FEES. This chapter applies to the following criminal fees:

(1) the consolidated fee imposed under Section 133.102;

(2) the time payment fee imposed under Section 133.103;

(3) fees for services of peace officers employed by the state imposed under Article 102.011, Code of Criminal Procedure, and forwarded to the comptroller as provided by Section 133.104;

(4) costs on conviction imposed in certain statutory county courts under Section 51.702, Government Code, and deposited in the judicial fund;

(5) costs on conviction imposed in certain county courts under Section 51.703, Government Code, and deposited in the judicial fund;

(6) the administrative fee for failure to appear or failure to pay or satisfy a judgment imposed under Section 706.006, Transportation Code;

(7) fines on conviction imposed under Section 621.506(g), Transportation Code;

(8) the fee imposed under Article 102.0045, Code of Criminal Procedure; ~~and~~

(9) the cost on conviction imposed under Section 133.105 and deposited in the judicial fund; and

(10) the cost on conviction imposed under Section 133.107.

SECTION 4. Subchapter C, Chapter 133, Local Government Code, is amended by adding Section 133.107 to read as follows:

Sec. 133.107. FEE FOR SUPPORT OF INDIGENT DEFENSE REPRESENTATION. (a) A person convicted of any offense, other than an offense relating to a pedestrian or the parking of a motor vehicle, shall pay as a court cost, in addition to other costs, a fee of \$2 to be used to fund indigent defense representation through the fair defense account established under Section 71.058, Government Code.

(b) The treasurer shall remit a fee collected under this section to the comptroller in the manner provided by Subchapter B. The comptroller shall credit the remitted fees to the credit of the fair defense account established under Section 71.058, Government Code.

SECTION 5. The imposition of a cost of court under Section 133.107, Local Government Code, as added by this Act, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

(3) Renumber existing SECTIONS of the bill accordingly.

The amendment to **HB 1267** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2.

Senator Harris offered the following amendment to the bill:

Floor Amendment No. 3

Amend **HB 1267** by inserting the following on page 2, between lines 9 and 10 (House enrolled version):

SECTION ____ . Article 26.052, Code of Criminal Procedure, is amended by amending Subsections (e), (f), and (g) and adding Subsections (e-1) and (e-2) to read as follows:

(e) The presiding judge of the district court in which a capital felony case is filed shall appoint an attorney, who ~~[two attorneys, at least one of whom]~~ must be qualified under this chapter, to represent an indigent defendant as soon as practicable after charges are filed, ~~[unless the state gives notice in writing that the state will not seek the death penalty]~~. Unless the state files written notice in the case that the state will not seek the death penalty, the judge shall appoint a second attorney to the case on the earlier of:

(1) the date the state files written notice in the case that the state will seek the death penalty; or

(2) the 90th day after the date on which the defendant is charged with a capital offense by indictment or by complaint, whichever occurs first.

(e-1) An attorney is not required to meet the standards described by Subsection (d)(2) to be eligible for appointment as a second attorney under Subsection (e).

(e-2) A case in which the state seeks the death penalty may not proceed to trial on the merits before the 180th day after the date on which a second attorney is appointed to the case under Subsection (e). If, after the second attorney is appointed, the state files written notice in the case that the state will not seek the death penalty, the judge may remove the second attorney from the case. The second attorney remains entitled to reasonable payment for services rendered before removal in accordance with the local guidelines for payment of an attorney appointed to represent a defendant in a capital case.

(f) Appointed counsel may file with the trial court a pretrial ex parte confidential request for advance payment of expenses to investigate potential defenses and mitigation evidence. The request for expenses must state:

(1) the type of investigation to be conducted;

(2) specific facts that suggest the investigation will result in admissible evidence; and

(3) an itemized list of anticipated expenses for each investigation.

(g) The court shall timely grant the request for advance payment of expenses in whole or in part if the request is reasonable. If the court denies in whole or in part the request for expenses, the court shall:

(1) state the reasons for the denial in writing;

(2) attach the denial to the confidential request; and

(3) submit the request and denial as a sealed exhibit to the record.

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

The amendment to **HB 1267** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 3.

Senator Ellis, on behalf of Senator Duncan, offered the following amendment to the bill:

Floor Amendment No. 4

Amend **HB 1267** by adding the following SECTIONS and renumber accordingly:

SECTION _____. Subtitle F, Title 2, Government Code, is amended by adding Chapter 78 to read as follows:

CHAPTER 78. CAPITAL WRITS COMMITTEE AND OFFICE OF CAPITAL WRITS

SUBCHAPTER A. CAPITAL WRITS COMMITTEE

Sec. 78.001. DEFINITIONS. In this subchapter:

(1) "Committee" means the capital writs committee established under this subchapter.

(2) "Office of capital writs" means the office of capital writs established under Subchapter B.

Sec. 78.002. ESTABLISHMENT OF COMMITTEE; DUTIES. (a) The capital writs committee is established.

(b) The committee shall recommend to the Court of Criminal Appeals a director for the office of capital writs when a vacancy exists for the position of director.

Sec. 78.003. APPOINTMENT AND COMPOSITION OF COMMITTEE. (a) The committee is composed of the following five members who are appointed by the president of the State Bar of Texas, with ratification by the executive committee of the State Bar of Texas:

(1) three attorneys who are members of the State Bar of Texas and who are not employed as prosecutors or law enforcement officials, all of whom must have criminal defense experience with death penalty proceedings in this state; and

(2) two state district judges, one of whom serves as presiding judge of an administrative judicial region.

(b) The committee shall elect one member of the committee to serve as the presiding officer of the committee.

(c) The committee members serve at the pleasure of the president of the State Bar of Texas, and the committee meets at the call of the presiding officer of the committee.

Sec. 78.004. RECOMMENDATION AND APPOINTMENT OF DIRECTOR OF OFFICE OF CAPITAL WRITS. (a) The committee shall submit to the Court of Criminal Appeals, in order of the committee's preference, a list of the names of not more than five persons the committee recommends that the court consider in appointing the director of the office of capital writs when a vacancy exists for the position of director. If the committee finds that three or more persons under the committee's consideration are qualified to serve as the director of the office of capital writs, the committee must include at least three names in the list submitted under this subsection.

(b) Each person recommended to the Court of Criminal Appeals by the committee under Subsection (a) must exhibit proficiency and commitment to providing quality representation to defendants in death penalty state habeas cases, as described by the Guidelines and Standards for Texas Capital Counsel, as published by the State Bar of Texas.

(c) When a vacancy for the position exists, the Court of Criminal Appeals shall appoint from the list of persons submitted to the court under Subsection (a) the director of the office of capital writs.

[Sections 78.005-78.050 reserved for expansion]
SUBCHAPTER B. OFFICE OF CAPITAL WRITS

Sec. 78.051. DEFINITIONS. In this subchapter:

(1) "Committee" means the capital writs committee established under Subchapter A.

(2) "Office" means the office of capital writs established and operated under this subchapter.

Sec. 78.052. ESTABLISHMENT; FUNDING. (a) The office of capital writs is established and operates under the direction and supervision of the director of the office.

(b) The office shall receive funds for personnel costs and expenses as specified in the General Appropriations Act.

Sec. 78.053. DIRECTOR; STAFF. (a) The Court of Criminal Appeals shall appoint a director to direct and supervise the operation of the office. The director serves a four-year term and continues to serve until a successor has been appointed and qualified. The Court of Criminal Appeals may remove the director only for good cause. The director may be reappointed for a second or subsequent term.

(b) The director shall employ attorneys and employ or retain licensed investigators and other personnel necessary to perform the duties of the office.

(c) The director and any attorney employed by the office may not:

(1) engage in the private practice of criminal law; or

(2) accept anything of value not authorized by law for services rendered under this subchapter.

Sec. 78.054. POWERS AND DUTIES. (a) The office may not accept an appointment under Article 11.071, Code of Criminal Procedure, if:

(1) a conflict of interest exists;

(2) the office has insufficient resources to provide adequate representation for the defendant;

(3) the office is incapable of providing representation for the defendant in accordance with the rules of professional conduct; or

(4) other good cause is shown for not accepting the appointment.

(b) The office may not represent a defendant in a federal habeas review. The office may not represent a defendant in an action or proceeding in state court other than an action or proceeding that:

(1) is conducted under Article 11.071, Code of Criminal Procedure;

(2) is collateral to the preparation of an application under Article 11.071, Code of Criminal Procedure; or

(3) concerns any other post-conviction matter other than a direct appeal, including an action or proceeding under Article 46.05 or Chapter 64, Code of Criminal Procedure.

(c) Notwithstanding Article 26.04(p), Code of Criminal Procedure, the office may independently investigate the financial condition of any person the office is appointed to represent. The office shall report the results of the investigation to the appointing judge. The judge may hold a hearing to determine if the person is indigent and entitled to representation under this section.

Sec. 78.055. COMPENSATION OF OTHER APPOINTED ATTORNEYS. If it is necessary that an attorney other than an attorney employed by the office be appointed, that attorney shall be compensated as provided by Articles 11.071 and 26.05, Code of Criminal Procedure.

Sec. 78.056. APPOINTMENT LIST. (a) The presiding judges of the administrative judicial regions shall maintain a statewide list of competent counsel available for appointment under Section 2(f), Article 11.071, Code of Criminal Procedure, if the office does not accept or is prohibited from accepting an appointment under Section 78.054. Each attorney on the list must possess the qualifications described by Section 78.004(b).

(b) The Office of Court Administration and the Task Force on Indigent Defense shall provide administrative support necessary under this section.

SECTION __. Sections 2(b), (c), (e), and (f), Article 11.071, Code of Criminal Procedure, are amended to read as follows:

(b) If a defendant is sentenced to death the convicting court, immediately after judgment is entered under Article 42.01, shall determine if the defendant is indigent and, if so, whether the defendant desires appointment of counsel for the purpose of a writ of habeas corpus. If the defendant desires appointment of counsel for the purpose of a writ of habeas corpus, the court shall appoint the office of capital writs to represent the defendant as provided by Subsection (c).

(c) At the earliest practical time, but in no event later than 30 days, after the convicting court makes the findings required under Subsections (a) and (b), the convicting court shall appoint the office of capital writs or, if the office of capital writs does not accept or is prohibited from accepting an appointment under Section 78.054, Government Code, other competent counsel under Subsection (f), unless the applicant elects to proceed pro se or is represented by retained counsel. On appointing counsel under this section, the convicting court shall immediately notify the court of criminal appeals of the appointment, including in the notice a copy of the judgment and the name, address, and telephone number of the appointed counsel.

(e) If the court of criminal appeals denies an applicant relief under this article, an attorney appointed under this section to represent the applicant shall, not later than the 15th day after the date the court of criminal appeals denies relief or, if the case is filed and set for submission, the 15th day after the date the court of criminal appeals issues a mandate on the initial application for a writ of habeas corpus under this article, move for the appointment of ~~[to be appointed as]~~ counsel in federal habeas review under 21 U.S.C. Section 848(q) or equivalent provision ~~[or, if necessary, move for the appointment of other counsel under 21 U.S.C. Section 848(q) or equivalent provision]~~. The attorney shall immediately file a copy of the motion with the court of criminal appeals, and if the attorney fails to do so, the court may take any action to ensure that the applicant's right to federal habeas review is protected, including initiating contempt proceedings against the attorney.

(f) If the office of capital writs does not accept or is prohibited from accepting an appointment under Section 78.054, Government Code, the ~~[The]~~ convicting court shall appoint counsel from a list of competent counsel maintained by the presiding judges of the administrative judicial regions under Section 78.056, Government Code. The convicting court shall reasonably compensate as provided by Section 2A an

attorney appointed under this section, other than an attorney employed by the office of capital writs, regardless of whether the attorney is appointed by the convicting court or was appointed by the court of criminal appeals under prior law. An attorney appointed under this section who is employed by the office of capital writs shall be compensated in accordance with Subchapter B, Chapter 78, Government Code.

SECTION ____. Section 2A(a), Article 11.071, Code of Criminal Procedure, is amended to read as follows:

(a) The state shall reimburse a county for compensation of counsel under Section 2, other than for compensation of counsel employed by the office of capital writs, and for payment of expenses under Section 3, regardless of whether counsel is employed by the office of capital writs. The total amount of reimbursement to which a county is entitled under this section for an application under this article may not exceed \$25,000. Compensation and expenses in excess of the \$25,000 reimbursement provided by the state are the obligation of the county.

SECTION ____. Section 3, Article 11.071, Code of Criminal Procedure, is amended by adding Subsection (f) to read as follows:

(f) This section applies to counsel's investigation of the factual and legal grounds for the filing of an application for a writ of habeas corpus, regardless of whether counsel is employed by the office of capital writs.

SECTION ____. Sections 4A(e) and (f), Article 11.071, Code of Criminal Procedure, are amended to read as follows:

(e) Sections 2A and 3 apply to compensation and reimbursement of counsel appointed under Subsection (b)(3) in the same manner as if counsel had been appointed by the convicting court, unless the attorney is employed by the office of capital writs, in which case the compensation of that attorney is governed by Subchapter B, Chapter 78, Government Code.

(f) Notwithstanding any other provision of this article, the court of criminal appeals shall appoint counsel and establish a new filing date for application, which may be no later than the 270th day after the date on which counsel is appointed, for each applicant who before September 1, 1999, filed an untimely application or failed to file an application before the date required by Section 4(a) or (b). Section 2A applies to the compensation and payment of expenses of counsel appointed by the court of criminal appeals under this subsection, unless the attorney is employed by the office of capital writs, in which case the compensation of that attorney is governed by Subchapter B, Chapter 78, Government Code.

SECTION ____. Article 26.04(b), Code of Criminal Procedure, is amended to read as follows:

(b) Procedures adopted under Subsection (a) shall:

(1) authorize only the judges of the county courts, statutory county courts, and district courts trying criminal cases in the county, or the judges' designee, to appoint counsel for indigent defendants in the county;

(2) apply to each appointment of counsel made by a judge or the judges' designee in the county;

(3) ensure that each indigent defendant in the county who is charged with a misdemeanor punishable by confinement or with a felony and who appears in court without counsel has an opportunity to confer with appointed counsel before the commencement of judicial proceedings;

(4) require appointments for defendants in capital cases in which the death penalty is sought to comply with any applicable ~~[the]~~ requirements under Articles 11.071 and [Article] 26.052;

(5) ensure that each attorney appointed from a public appointment list to represent an indigent defendant perform the attorney's duty owed to the defendant in accordance with the adopted procedures, the requirements of this code, and applicable rules of ethics; and

(6) ensure that appointments are allocated among qualified attorneys in a manner that is fair, neutral, and nondiscriminatory.

SECTION ____. Article 26.044(a), Code of Criminal Procedure, is amended by adding Subdivision (3) to read as follows:

(3) "Office of capital writs" means the office of capital writs established under Subchapter B, Chapter 78, Government Code.

SECTION ____. Article 26.044, Code of Criminal Procedure, is amended by adding Subsection (n) to read as follows:

(n) An attorney employed by a public defender's office may be appointed with respect to an application for a writ of habeas corpus only if:

(1) an attorney employed by the office of capital writs is not appointed in the case; and

(2) the attorney employed by the public defender's office is on the list of competent counsel maintained under Section 78.056, Government Code.

SECTION ____. Article 26.05(a), Code of Criminal Procedure, is amended to read as follows:

(a) A counsel, other than an attorney with a public defender or an attorney employed by the office of capital writs, appointed to represent a defendant in a criminal proceeding, including a habeas corpus hearing, shall be paid a reasonable attorney's fee for performing the following services, based on the time and labor required, the complexity of the case, and the experience and ability of the appointed counsel:

(1) time spent in court making an appearance on behalf of the defendant as evidenced by a docket entry, time spent in trial, and time spent in a proceeding in which sworn oral testimony is elicited;

(2) reasonable and necessary time spent out of court on the case, supported by any documentation that the court requires;

(3) preparation of an appellate brief and preparation and presentation of oral argument to a court of appeals or the Court of Criminal Appeals; and

(4) preparation of a motion for rehearing.

SECTION ____. Section 2(d), Article 11.071, Code of Criminal Procedure, is repealed, effective January 1, 2008.

SECTION 11. (a) Not later than January 1, 2008, in accordance with Section 78.056, Government Code, as added by this Act, the presiding judges of the administrative judicial regions shall complete the statewide list of competent counsel available for appointment to represent defendants in applications for writs of habeas corpus.

(b) Not later than January 15, 2008, the president of the State Bar of Texas shall appoint the members of the capital writs committee.

(c) Not later than May 15, 2008, the capital writs committee shall submit to the Court of Criminal Appeals the list of candidates for the position of the director of the office of capital writs.

(d) Not later than September 1, 2008, the Court of Criminal Appeals shall appoint the director of the office of capital writs under Chapter 78, Government Code, as added by this Act.

SECTION _____. Section 6, Article 11.071, Code of Criminal Procedure, is amended by adding Subsection (b-1) to read as follows:

(b-1) If the convicting court receives notice that the requirements of Section 5(a) for consideration of a subsequent application have been met, the convicting court shall appoint counsel and provide for the compensation and reimbursement of expenses of the counsel as is provided by Sections 2A and 3, including compensation for time previously spent and reimbursement of expenses previously incurred and regardless of whether the subsequent application is ultimately dismissed.

SECTION _____. (a) The change in law made by this Act to Section 2A, Article 11.071, Code of Criminal Procedure, applies only to an initial or subsequent application for a writ of habeas corpus filed on or after January 1, 2008. An application filed before January 1, 2008, is covered by the law in effect when 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 6(b-1), Article 11.071, Code of Criminal Procedure, applies only to a subsequent application for a writ of habeas corpus filed on or after January 1, 2008. A subsequent application filed before January 1, 2008, is covered by the law in effect when the application was filed, and the former law is continued in effect for that purpose.

The amendment to **HB 1267** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 4.

Senator Hinojosa offered the following amendment to the bill:

Floor Amendment No. 5

Amend **HB 1267** (Senate committee printing) as follows:

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

SECTION ___. Article 26.051(a)(2), Code of Criminal Procedure, is amended to read as follows:

(2) "Correctional institutions [Institutional] division" means the correctional institutions [institutional] division of the Texas Department of Criminal Justice.

SECTION ___. Article 26.051, Code of Criminal Procedure, is amended by amending Subsections (d) and (h) and adding Subsection (i) to read as follows:

(d) A court shall:

(1) ~~may~~ notify the board if it determines that a defendant before the court is indigent and is an inmate charged with an offense committed while in the custody of the correctional institutions [institutional] division or a correctional facility authorized by Section 495.001, Government Code; and

(2) request that the board provide legal representation for the inmate.

(h) When the court appoints an attorney other than an attorney provided by the board:

(1) except as otherwise provided by this article, the inmate's legal defense is subject to Articles 1.051, 26.04, 26.05, and 26.052, as applicable; and

(2) the county in which a facility of the correctional institutions division or a correctional facility authorized by Section 495.001, Government Code, is located shall pay from its general fund the total costs of the aggregate amount allowed and awarded by the court for attorney compensation and expenses under Article 26.05 or 26.052, as applicable; ~~the county shall pay from its general fund the first \$250.00 of the aggregate sum allowed and awarded by the court for the attorney fees under Article 26.05 of this code. If the fees awarded for a court appointed attorney in a case described by this subsection exceed \$250.00, the court shall certify the amount in excess of \$250.00 to the board. On request of the board, the comptroller shall issue a warrant to the court appointed attorney in the amount certified to the board by the court].~~

(i) The state shall reimburse a county for attorney compensation and expenses awarded under Subsection (h). A court seeking reimbursement for a county shall certify to the comptroller of public accounts the amount of compensation and expenses for which the county is entitled to be reimbursed under this article. Not later than the 60th day after the date the comptroller receives from the court the request for reimbursement, the comptroller shall issue a warrant to the county in the amount certified by the court.

SECTION __. Articles 26.051(b) and (c), Code of Criminal Procedure, and Article 26.055, Code of Criminal Procedure, are repealed.

SECTION __. The change in law made by this Act to Article 26.051, Code of Criminal Procedure, applies to compensation and expenses owed on or after the effective date of this Act to an attorney appointed under Article 26.051, Code of Criminal Procedure, regardless of whether the attorney was appointed before, on, or after the effective date of this Act.

(2) In SECTION 2 of the bill (page 1, line 40), between "Act" and "applies", insert "to Article 26.05, Code of Criminal Procedure,".

(3) In SECTION 2 of the bill (page 1, line 42), strike "as amended by this Act,".

The amendment to **HB 1267** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 5.

On motion of Senator Seliger and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 1267 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 1267 ON THIRD READING

Senator Seliger moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1267** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

(Senator Carona in Chair)

HOUSE BILL 3851 ON THIRD READING

Senator Shapiro moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3851** be placed on its third reading and final passage:

HB 3851, Relating to the admission of high school graduates and undergraduate transfer students to certain institutions of higher education, the computation of a student's high school grade point average for purposes of determining eligibility for admission, and policies to promote the admission of undergraduate transfer students.

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

Absent: Ogden.

The bill was read third time.

Senator Zaffirini offered the following amendment to the bill:

Floor Amendment No. 1 on Third Reading

Amend **HB 3851** on third reading (committee report) by adding the following new section and renumbering remaining sections accordingly:

SECTION __. Subtitle A, Title 3, Education Code, is amended by adding Chapter 57A to read as follows:

CHAPTER 57A. STANDARDS OF CONDUCT APPLICABLE TO
EDUCATIONAL LOAN PRACTICES
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 57A.01. DEFINITIONS. In this chapter:

(1) "Affiliated entity" means an alumni association, booster club, or other organization recognized by or affiliated with a postsecondary educational institution as an official organization of the institution.

(2) "Educational loan" means:

(A) any loan made, insured, or guaranteed under Title IV, Higher Education Act of 1965 (Pub. L. No. 89-329); or

(B) a private loan provided by an educational loan lender that:
(i) is not made, insured, or guaranteed under Title IV, Higher Education Act of 1965 (Pub. L. No. 89-329); and

(ii) is issued by the lender to a student or the parent of a student expressly for postsecondary educational expenses, regardless of whether the loan involves enrollment certification by the postsecondary educational institution that the student attends.

(3) "Educational loan lender" means a person whose primary business is:

(A) making, brokering, arranging, or accepting applications for educational loans; or

(B) engaging in a combination of activities described by Paragraph (A).

(4) "Gift" means any gratuity, favor, discount, entertainment, hospitality, or other item having a monetary value of more than \$20. The term includes:

(A) any service, transportation, lodging, or meal; and

(B) a gift provided in kind, by purchase of a ticket, through payment in advance, or through reimbursement after expenses have been incurred.

(5) "Postsecondary educational expenses" means any of the expenses that are included as part of a student's "cost of attendance," as defined by Section 472, Higher Education Act of 1965 (Pub. L. No. 89-329).

(6) "Postsecondary educational institution" means any educational institution, public or private, that offers a degree, certificate, or program of study beyond that offered in secondary school. The term includes:

(A) an institution of higher education, as defined by Section 61.003;
and

(B) a private or independent institution of higher education, as defined by Section 61.003.

(7) "Revenue sharing" means any arrangement under which an educational loan lender pays a postsecondary educational institution or affiliated entity a percentage of the principal of educational loans directed toward the lender from a borrower for postsecondary educational expenses related to attending the institution, other than an arrangement permitted under Title IV, Higher Education Act of 1965 (Pub. L. No. 89-329).

Sec. 57A.02. GENERAL PROVISIONS RELATING TO GIFTS. (a) For purposes of this chapter, a gift to the family member of an employee of a postsecondary educational institution who is related to the employee within the second degree by consanguinity or affinity, as determined under Subchapter B, Chapter 573, Government Code, is considered to be a gift to the employee if the employee knowingly acquiesces in the giving of the gift and the employee has reason to believe the gift is being given because of the employee's official position as an employee.

(b) A provision of this chapter prohibiting an action regarding a gift to an employee of a postsecondary educational institution does not apply to a gift that consists of:

(1) standard informational material related to a loan such as a brochure;

(2) food, refreshments, training, or informal material furnished to the employee as an integral part of a training session or through the employee's participation in an advisory council that is designed to improve the educational loan lender's services to the institution, if that training or participation contributes to the professional development of the employee; or

(3) favorable terms, conditions, or borrower benefits on an educational loan provided to the employee as a student of a postsecondary educational institution.

Sec. 57A.03. EXCEPTION FROM APPLICABILITY OF CHAPTER. (a) In this chapter, the term "educational loan lender" does not include:

- (1) the Texas Guaranteed Student Loan Corporation; or
- (2) the coordinating board.

(b) This chapter does not apply to the relationship between the Texas Guaranteed Student Loan Corporation or the coordinating board and:

- (1) a postsecondary educational institution; or
- (2) an employee of a postsecondary educational institution.

Sec. 57A.04. CONFLICT WITH FEDERAL LAW. This chapter does not prohibit or affect any action authorized under Title IV, Higher Education Act of 1965 (Pub. L. No. 89-329), or other federal law. If a provision of this chapter and a provision of federal law, including a regulation, or an interpretation of federal law by an agency authorized to interpret or administer that federal law, are inconsistent or in conflict, federal law or interpretation controls and the inconsistent or conflicting provision of this chapter does not apply.

[Sections 57A.05-57A.20 reserved for expansion]

SUBCHAPTER B. STANDARDS OF CONDUCT APPLICABLE TO EDUCATIONAL LOAN LENDERS, POSTSECONDARY EDUCATIONAL INSTITUTIONS, AFFILIATED ENTITIES, AND CERTAIN EMPLOYEES

Sec. 57A.21. PROHIBITION AGAINST REVENUE SHARING. (a) An educational loan lender and a postsecondary educational institution or affiliated entity may not engage in revenue sharing.

(b) An arrangement permitted under Title IV, Higher Education Act of 1965 (Pub. L. No. 89-329), that would constitute revenue sharing if not permitted under that title may not provide consideration to a postsecondary educational institution or affiliated entity in exchange for a benefit provided to the educational loan lender by the institution or entity unless that benefit is authorized by that title.

Sec. 57A.22. PROHIBITION AGAINST CERTAIN ACTIVITIES BY EDUCATIONAL LOAN LENDERS. An educational loan lender may not:

(1) offer or provide a gift to a postsecondary educational institution, an affiliated entity, or an employee of a postsecondary educational institution or affiliated entity who is employed in a capacity in which the employee oversees financial aid matters at the institution or entity or advises students or potential students of the institution on financial aid matters, except that the lender may offer or provide a scholarship or other charitable donation to the institution, entity, or employee if the scholarship or donation is not made in exchange for the institution, entity, or employee:

(A) recommending the lender to students or potential students of the institution who are seeking an educational loan or other financial aid; or

(B) providing any other special treatment or consideration to the lender;

(2) provide any remuneration to an employee of a postsecondary educational institution or affiliated entity for service on an advisory board to the lender, except that the lender may reimburse the employee for reasonable and necessary expenses incurred by the employee in serving on an advisory board in accordance with any applicable ethics policies adopted by the Texas Ethics Commission; or

(3) allow an employee, representative, or agent of the lender to represent to any borrower or prospective borrower that the employee, representative, or agent is an employee, representative, or agent of a postsecondary educational institution.

Sec. 57A.23. PROHIBITION AGAINST SOLICITATION OR ACCEPTANCE OF CERTAIN GIFTS. (a) A postsecondary educational institution, an affiliated entity, or an employee of a postsecondary educational institution or affiliated entity who is employed in a capacity in which the employee oversees financial aid matters at the institution or entity or advises students or potential students of the institution on financial aid matters may not solicit or accept any gift from an educational loan lender in exchange for the institution, entity, or employee recommending the lender to students or potential students of the institution who are seeking an educational loan or other financial aid.

(b) This section does not prohibit a postsecondary educational institution, an affiliated entity, or an employee of a postsecondary educational institution or affiliated entity from soliciting or accepting a scholarship or other charitable donation from an educational loan lender that is not made in exchange for the institution, entity, or employee:

(1) recommending the lender to students or potential students of the institution who are seeking an educational loan or other financial aid; or

(2) providing any other special treatment or consideration to the lender.

Sec. 57A.24. PROHIBITION AGAINST MISLEADING IDENTIFICATION OF LENDER EMPLOYEES AND REPRESENTATIVES. An employee, representative, or agent of an educational loan lender may not represent to any person that the employee, representative, or agent is a member of the staff of a financial aid office of a postsecondary educational institution.

Sec. 57A.25. DISCLOSURE OF EDUCATIONAL LOAN INFORMATION ON REQUEST OF INSTITUTION. (a) Except as provided by Subsection (c), on the request of a postsecondary educational institution, an educational loan lender shall disclose to the institution, to the extent reasonably ascertainable:

(1) the historic default rates of the lender's educational loans made to borrowers who attend or attended the institution;

(2) the rates of interest charged to borrowers from the institution in the year preceding the year of the disclosure;

(3) the number of borrowers obtaining each rate of interest described by Subdivision (2); and

(4) the methods by which the lender processes educational loan applications.

(b) On request of a student or other person, a postsecondary educational institution shall disclose to the person information obtained by the institution under Subsection (a).

(c) This section does not apply to an educational loan funded, insured, or guaranteed by the federal government.

Sec. 57A.26. DISCLOSURE OF OWNERSHIP INTEREST IN EDUCATIONAL LOAN LENDER BY CERTAIN INSTITUTION EMPLOYEES.

(a) In this section, "dependent child" means a child, including an adopted child or stepchild, who is an individual's dependent child for purposes of Section 572.006, Government Code.

(b) Each employee of a financial aid office of a postsecondary educational institution shall file with the institution in the manner prescribed by the institution a disclosure statement indicating whether the employee or the employee's spouse or dependent child owns any shares of stock or holds another ownership interest in an educational loan lender.

(c) The disclosure statement must be filed on the date the employee begins employment with the financial aid office and must be supplemented not later than the fifth business day after the date on which the employee or the employee's spouse or dependent child later acquires any stock or other ownership interest in an educational loan lender.

(c-1) An employee who is employed in a financial aid office of a postsecondary educational institution on January 1, 2008, shall file a disclosure statement as required by this section not later than February 1, 2008. This subsection expires September 1, 2008.

(d) The disclosure statement must indicate the name of the educational loan lender in which the employee, spouse, or dependent child, as applicable, owns any stock or holds any other ownership interest and the number of shares of stock held or the amount, percentage, value, or other reasonable description of the other ownership interest, as applicable.

(e) The head of a financial aid office of the postsecondary educational institution must review and sign each disclosure statement filed by an employee of the office, except that any statement filed by the head of the financial aid office must be reviewed and signed by the president of the institution. The disclosure statements must be maintained in the financial aid office.

(f) This section does not require the disclosure of any ownership of shares in a publicly traded mutual fund or similar investment vehicle in which the person does not exercise any discretion regarding the investment of the assets of the fund or other investment vehicle.

(g) An employee who knowingly fails to file a disclosure statement as required by this section is subject to disciplinary action, including termination.

[Sections 57A.27-57A.40 reserved for expansion]

SUBCHAPTER C. REQUIREMENTS RELATING TO LENDER LISTS

Sec. 57A.41. REQUIREMENTS RELATING TO LENDER LISTS. (a) A postsecondary educational institution may make available a list of one or more recommended or suggested educational loan lenders for use in any form by borrowers or prospective borrowers who attend or have indicated an intent to attend the institution or members of the public, but the institution may not use the term "preferred" in the name of the list or in reference to the list. If a postsecondary educational institution makes available to borrowers or prospective borrowers a lender list described by this subsection, the institution must ensure that the list:

(1) discloses the process by which the institution has selected educational loan lenders for inclusion on the list, including the methods and criteria used to choose the lenders and the relative importance of the criteria;

(2) states, in the same font size and same manner as the predominant text on the document, that a borrower has the right and ability to select the educational loan lender of the borrower's choice, is not required to use any of the lenders on the list, and will not be penalized for selecting a lender that is not on the list, although the time required to obtain a loan may vary depending on the lender selected; and

(3) is periodically reviewed and updated.

(b) An educational loan lender against whom a penalty has been assessed under this chapter may be placed or remain on a postsecondary educational institution's lender list only if notice of the penalty is provided to all borrowers and prospective borrowers who attend or have indicated an intent to attend the institution.

[Sections 57A.42-57A.60 reserved for expansion]

SUBCHAPTER D. ENFORCEMENT; PENALTIES

Sec. 57A.61. CIVIL PENALTY. (a) An educational loan lender, postsecondary educational institution, or affiliated entity that violates a provision of this chapter is liable for a civil penalty not to exceed \$25,000 for each violation.

(b) The attorney general may bring suit to recover a civil penalty under this section. In determining the amount of a penalty to be recovered, the attorney general shall consider the nature and severity of the violation.

Sec. 57A.62. CRIMINAL OFFENSES. (a) An employee of a postsecondary educational institution or affiliated entity who intentionally or knowingly violates Section 57A.23 prohibiting an action regarding a gift commits a criminal offense.

(b) An offense under Subsection (a) is:

(1) a Class B misdemeanor if the value of the gift is \$20 or more but less than \$500;

(2) a Class A misdemeanor if the value of the gift is \$500 or more but less than \$1,500;

(3) a state jail felony if the value of the gift is \$1,500 or more but less than \$20,000;

(4) a felony of the third degree if the value of the gift is \$20,000 or more but less than \$100,000;

(5) a felony of the second degree if the value of the gift is \$100,000 or more but less than \$200,000; or

(6) a felony of the first degree if the value of the gift is \$200,000 or more.

(c) A person who intentionally or knowingly violates Section 57A.24 commits a criminal offense. An offense under this subsection is a Class B misdemeanor.

(d) If conduct that constitutes an offense under this section also constitutes an offense under other law, the actor may be prosecuted under this section or the other law.

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The amendment to **HB 3851** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 on Third Reading.

VOTE RECONSIDERED

On motion of Senator Shapiro and by unanimous consent, the vote by which Floor Amendment No. 1 on Third Reading was adopted was reconsidered.

Question — Shall Floor Amendment No. 1 on Third Reading to **HB 3851** be adopted?

Senator Shapleigh offered the following amendment to Floor Amendment No. 1 on Third Reading:

Floor Amendment No. 2 on Third Reading

Amend Floor Amendment No. 1 on Third Reading to **HB 3851** in added Section 57A.25, Education Code, by striking added Subsection (b) and substituting the following:

(b) A postsecondary educational institution shall maintain any information obtained by the institution under Subsection (a) on the institution's Internet website in a one-page format that:

(1) is easily accessible to members of the public through a link that appears in a prominent place on the institution's Internet website; and

(2) allows members of the public to compare the information obtained from each educational loan lender by category.

The amendment to Floor Amendment No. 1 on Third Reading to **HB 3851** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2 on Third Reading.

Question recurring on the adoption of Floor Amendment No. 1 on Third Reading to **HB 3851**, the amendment as amended was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 on Third Reading as amended.

Senator West, on behalf of Senator Ellis, offered the following amendment to the bill:

Floor Amendment No. 3 on Third Reading

Amend **HB 3851** on third reading (Senate committee printing) by inserting the following sections and renumbering subsequent sections accordingly.

SECTION ___ Subchapter G, Chapter 51, Education Code, is amended by adding Sections 51.358 and 51.359 to read as follows:

Sec. 51.358. INTERIM ADMINISTRATION OF CERTAIN INSTITUTIONS ON FINDING OF FINANCIAL OR ADMINISTRATIVE EXIGENCY. (a) In this section, "university" means a general academic teaching institution as defined by Section 61.003.

(b) This section applies only to a university or university system.

(c) The governor may make an independent finding that a condition of financial or administrative exigency exists within a university or university system that:

(1) creates continuing and pervasive instability in the operation and management of the university or system; or

(2) results in the university or system consistently failing to properly perform all or part of the primary functions or duties of the university or system.

(d) The governor shall notify each member of the legislative audit committee of the governor's finding under Subsection (c). The legislative audit committee shall meet to act on the governor's finding, at the call of either chair of the committee, not later than the 10th business day after the latest date a member of the committee receives notice from the governor under this subsection.

(e) The governor may abolish the governing body of the university or university system if the legislative audit committee concurs with the governor's finding under Subsection (c).

(f) If the governing body is abolished under this section, an interim governing board for the university or university system is reconstituted composed of five members appointed by the governor with the advice and consent of the senate. Each member appointed under this subsection holds office for a term expiring on the second anniversary of the date of the first appointment of a member of the interim governing board. In consultation with the governor, the interim governing board may appoint an interim president or chancellor to the university or system with the duties determined by the interim governing board to serve during the term of the interim governing board.

(g) Following the expiration of the terms of the interim governing board members under Subsection (f), the governing body of the university or university system is reconstituted under the law providing for the governance of the university or system. The initial members of the reconstituted governing body shall be appointed for terms that expire on the dates necessary to conform to the permanent law establishing those terms.

(h) During the period in which an interim governing board is in effect, the law establishing the governing body of the university or university system and the terms of office of the members of the governing body are suspended.

(i) The interim governing board, with the assistance of the interim president or chancellor, if any, shall develop and implement a comprehensive administration improvement plan for the university or university system and submit the plan to the governor and to each of the joint chairs of the legislative audit committee. The plan must address:

(1) finance and accounting;

(2) human resources;

(3) management information systems;

(4) planning and communications;

(5) student financial aid;

(6) contract and grant management; and

(7) other elements determined appropriate by the governor with the approval of the legislative audit committee.

(j) The administration improvement plan must:

(1) include timelines, benchmarks, and projected outcomes for improvements in the areas described by Subsection (i);

(2) provide a procedure for the investigation and reporting of any possible criminal activity to the appropriate district or county attorney and, unless prohibited by law, to the governor, the lieutenant governor, the speaker of the house of representatives, and the attorney general, if the activity:

(A) is committed by a university or university system employee; and

(B) contributes to the condition of financial or administrative exigency;

and

(3) be prepared in a format specified by the governor with the approval of the legislative audit committee.

(k) The interim governing board may consult with appropriate experts as the interim governing board considers necessary in developing and implementing the administration improvement plan.

(l) The interim governing board may contract with another university system's administration office to provide financial and accounting services, including consulting services, to assist the university or university system under interim administration in:

(1) reviewing policies and procedures relating to:

(A) revenue and expenditure controls;

(B) fixed assets;

(C) treasury matters;

(D) payroll; and

(E) information technology;

(2) reviewing and approving grants and contracts;

(3) determining and recommending best business practices;

(4) segregating duties affecting internal controls to ensure that no one individual has control over multiple areas of operations or financial transactions;

(5) establishing a monthly financial report that includes receipts, bank statements, and monthly reconciliations;

(6) providing accurate and timely recording of assets in the state property accounting system; and

(7) providing other management and financial operations.

(m) The interim governing board shall prepare an annual financial statement for the university or university system. An audit of the financial statement must be prepared by the state auditor or, if the authority to contract for audit services is delegated by the state auditor in accordance with Section 321.020, Government Code, by an independent private auditor. The audit required by this subsection must include a review of a contract entered into by the university or university system that:

(1) is active; or

(2) the university or university system entered into during the two-year period immediately preceding the date the interim administration took effect.

(n) The interim governing board shall report to the governor, the legislative audit committee, and the legislative oversight committee appointed under Subsection (r) on the progress of the administration improvement plan and on the progress of the outcomes for each area described by Subsection (i), including specific information regarding that progress:

(1) not later than the 60th day after the date the interim governing board is appointed;

(2) at least once each quarter; and

(3) at other times as directed by the governor with the approval of the legislative audit committee.

(o) An interim governing board appointed for a university or university system under Subsection (f) and an interim president or chancellor appointed by that governing board shall consult with the accreditation agencies by which the university or system is accredited and take appropriate action to the extent necessary to ensure that the university or system maintains accreditation during the period in which the interim governing board is in effect.

(p) A person appointed to act as the interim president or chancellor of a university or university system under this section is entitled to receive a salary for performing those duties that is equal to the salary of the chief administrative officer of the university or system under interim administration. The university or system under interim administration shall pay the salary of the interim president or chancellor from money appropriated or otherwise available to the university or system, except to the extent that money to pay the salary is specifically appropriated or made available through the budget execution process for that purpose.

(q) A member of an interim governing board or an interim president or chancellor is entitled to reimbursement for the reasonable and necessary expenses incurred by the person in the course of performing the person's duties under this section. Reimbursement shall be paid from funds appropriated or otherwise available to the university or university system under interim administration, except to the extent that money to pay those expenses is specifically appropriated or made available through the budget execution process for that purpose.

(r) As soon as practicable after appointing an interim governing board under Subsection (f), the lieutenant governor and the speaker of the house shall appoint a legislative oversight committee composed of three members of the senate and three members of the house of representatives to review the activities of the interim governing board and the reconstituted governing body that succeeds the interim governing board. A legislative oversight committee appointed under this subsection expires on the third anniversary of the date of the first appointment of a member of the interim governing board.

(s) After the termination of an interim administration under this section, the university or university system placed under the interim administration must continue to report to the governor and the legislative audit committee at least once each quarter. The report must include the information required by Subsection (i).

Sec. 51.359. DENIAL OF EMPLOYMENT FOR CONTRIBUTION TO FINANCIAL OR ADMINISTRATIVE EXIGENCY. The interim governing board of a university or university system subject to an interim administration under Section 51.358 may make a determination that an individual's act or omission was a material cause of the condition of financial or administrative exigency at the university or university system that resulted in the interim administration. If the interim governing board makes a determination under this section, the individual shall be denied

employment in an administrative capacity with the university or university system and any employment contract provision concerning administrative employment of that individual is void by the university or system.

SECTION ____ . Chapter 321, Government Code, is amended by adding Section 321.024 to read as follows:

Sec. 321.024. MEETING BY TELECOMMUNICATION DEVICE. (a) As an exception to Chapter 551 and other law, if a meeting is located in Austin and the joint chairs of the committee are physically present at the meeting, then any number of the other members of the committee may attend the meeting by use of telephone conference call, video conference call, or other similar telecommunication device.

(b) This section applies for purposes of constituting a quorum, for purposes of voting, and for any other purpose allowing a member of the committee to otherwise fully participate in any meeting of the committee, and applies only to a meeting held pursuant to Chapter 2104 or 2116 of this code, or Section 51.358, Education Code.

(c) A meeting held by use of telephone conference call, video conference call, or other similar telecommunication device:

(1) is subject to the notice requirements applicable to other meetings of the committee;

(2) must specify in the notice of the meeting the location in Austin of the meeting at which the joint chairs will be physically present;

(3) must be open to the public and shall be audible to the public at the location in Austin specified in the notice of the meeting as the location of the meeting at which the joint chairs will be physically present; and

(4) must provide two-way audio communication between all members of the committee attending the meeting during the entire meeting, and if the two-way audio communication link with any member attending the meeting is disrupted at any time, the meeting may not continue until the two-way audio communication link is reestablished.

The amendment to **HB 3851** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 3 on Third Reading.

Senator Janek offered the following amendment to the bill:

Floor Amendment No. 4 on Third Reading

Amend **HB 3851** on third reading by adding the following SECTION, numbered appropriately, and by renumbering any subsequent SECTIONS accordingly:

SECTION ____ . Subchapter D, Chapter 33, Education Code, is amended by adding Section 33.092 to read as follows:

Sec. 33.092. PHYSICAL EXAMINATION REQUIRED FOR PARTICIPATION IN EXTRACURRICULAR ATHLETIC ACTIVITY. (a) In this section:

(1) "Advanced practice nurse" means a registered nurse approved by the Board of Nurse Examiners to practice as an advanced practice nurse as provided by Section 301.152, Occupations Code.

(2) "Physician" means a physician licensed under Subtitle B, Title 3, Occupations Code.

(3) "Physician assistant" means a person who is licensed under Chapter 204, Occupations Code.

(b) A student may not participate in an extracurricular athletic activity, including an athletic practice, scrimmage, game, or match, sponsored or sanctioned by the University Interscholastic League unless the student has submitted to the school district the student attends a completed form indicating that the student has received a physical examination conducted by a physician, physician assistant, or advanced practice nurse. The form must:

(1) be signed by the physician, physician assistant, or advanced practice nurse; and

(2) include a statement that, based on the examination, the physician, physician assistant, or advanced practice nurse has determined that the student does not have a medical condition that would make participation in the athletic activity hazardous for the student.

(c) The University Interscholastic League shall adopt rules to administer this section.

The amendment to **HB 3851** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 4 on Third Reading except as follows:

Absent: Patrick.

On motion of Senator Shapiro and by unanimous consent, the caption was again amended to conform to the body of the bill as amended.

HB 3851 as again amended was finally passed by the following vote: Yeas 30, Nays 0.

Absent: Ogden.

RECESS

On motion of Senator Whitmire, the Senate at 8:05 p.m. recessed until 8:30 p.m. today.

AFTER RECESS

The Senate met at 8:42 p.m. and was called to order by the President.

HOUSE BILL 3107 ON SECOND READING

The President laid before the Senate **HB 3107** by Senator Ogden on its second reading. The bill had been read second time, an amendment offered, and further consideration postponed to a time certain of 8:00 p.m. today:

HB 3107, Relating to the creation and re-creation of funds and accounts in the state treasury, the dedication and rededication of revenue, and the exemption of unappropriated money from use for general governmental purposes.

Question — Shall Floor Amendment No. 1 to **HB 3107** be adopted?

Senator West offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 2

Amend Floor Amendment No. 1 to **HB 3107** as follows:

(1) In Section 4 of the bill (page 2, between lines 11 and 12), insert a new Subdivision (1) to read as follows and renumber the existing Subdivision (1) and subsequent subdivisions accordingly:

(1) the fire prevention and public safety account created by House Bill No. 2935 or similar legislation;

(2) In Section 6 of the bill (page 3, between lines 3 and 4), insert a new Subdivision (1) to read as follows and renumber the existing Subdivision (1) and subsequent subdivisions accordingly:

(1) all dedications or rededications made by House Bill No. 2935 or similar legislation;

The amendment to Floor Amendment No. 1 to **HB 3107** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2.

Senator West offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 3

Amend Floor Amendment No. 1 to **HB 3107** as follows:

(1)(a) In SECTION 4 of the bill, following the colon, insert page 2, line 11:

(1) the premium payment assistance account created by House Bill No. 1751 or similar legislation;

(2) the Texas health opportunity pool created by Senate Bill No. 10, or similar legislation;

(1)(b) Renumber remaining Subdivisions accordingly

(2)(a) In SECTION 6 of the bill, following the colon, insert page 3, line 3:

(1) all dedications or rededications to the sexual assault program fund, the premium payment assistance account, or the Texas health opportunity pool made by House Bill No. 1751 or similar legislation;

(2)(b) Renumber the subdivisions of the bill accordingly.

The amendment to Floor Amendment No. 1 to **HB 3107** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 3.

Senator Carona offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 4

Amend Floor Amendment No. 1 to **HB 3107** as follows:

(1) In Section 4 of the bill (page 2, between lines 11 and 12), insert a new Subdivision (1) to read as follows and renumber the existing subdivisions accordingly:

(1) the regional trauma account created by Senate Bill No. 125 or similar legislation;

(2) In Section 6 of the bill (page 3, between lines 3 and 4), insert new Subdivisions (1) and (2) to read as follows and renumber the existing subdivisions accordingly:

(1) all dedications or rededications of revenue from civil or administrative penalties made by Senate Bill No. 125 or similar legislation;

(2) the dedication or rededication of fee revenue made by House Bill No. 481 or similar legislation;

The amendment to Floor Amendment No. 1 to **HB 3107** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 4.

Senator Hinojosa offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 5

Amend Floor Amendment No. 1 to **HB 3107** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS accordingly:

SECTION _____. CONTINGENT DEDICATION. Contingent on Senate Bill No. 1562 or similar legislation concerning animal control officer training being enacted by the 80th Legislature, Regular Session, 2007, and becoming law, a fee collected by the Department of State Health Services to cover the cost of arranging and conducting an animal control course may be appropriated only to the Department of State Health Services for the purpose of paying the costs of arranging and conducting the course. Section 2 of this Act does not apply to the dedication of revenue made by this section.

The amendment to Floor Amendment No. 1 to **HB 3107** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 5.

Senator Watson offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 6

Amend Floor Amendment No. 1 to **HB 3107** by adding a new SECTION, numbered appropriately, and by renumbering any subsequent SECTIONS of the bill accordingly:

SECTION ____. ACCOUNTS IN JUDICIAL FUND AND RELATED DEDICATIONS OF REVENUE. Section 2 of this Act does not apply to:

(1) the supreme court support account created in the judicial fund by Senate Bill No. 1182 or similar legislation; or

(2) dedications of fee revenue deposited to the credit of the account described by Subdivision (1) of this section in accordance with the provisions of Senate Bill No. 1182 or similar legislation.

The amendment to Floor Amendment No. 1 to **HB 3107** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 6.

Senator Jackson offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 7

Amend Floor Amendment No. 1 to **HB 3107**, by inserting the following SECTION in the bill, appropriately numbered, and renumbering the SECTIONS of the bill accordingly:

SECTION _____. EFFECT OF SECTION 2 OF THIS ACT ON CERTAIN FUNDS OF TEXAS WINDSTORM INSURANCE ASSOCIATION. Section 2 of this Act does not apply to any fund, account, or dedication of revenue that is created or re-created by House Bill No. 2960, Acts of the 80th Legislature, Regular Session, 2007, or to which House Bill No. 2960 refers, including:

(1) the catastrophe reserve trust fund created under Subchapter J, Chapter 2210, Insurance Code;

(2) the dedicated trust fund created under Section 2210.607, Insurance Code, as added by H.B. No. 2960; and

(3) premium surcharges collected by the Texas Windstorm Insurance Association under Section 2210.058, Insurance Code, as amended by H.B. No. 2960.

The amendment to Floor Amendment No. 1 to **HB 3107** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 7.

Senator Shapleigh offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 8

Amend Floor Amendment No. 1 to **HB 3107** by adding the following SECTION, appropriately numbered, and renumbering the subsequent SECTIONS of the bill appropriately:

SECTION _____. PERMANENT FUND FOR VETERANS' ASSISTANCE. (a) Section 403.108, Government Code, is transferred to Subchapter A, Chapter 434, Government Code, redesignated as Section 434.017, and amended to read as follows:

Sec. 434.017 [403.108]. [PERMANENT] FUND FOR VETERANS' ASSISTANCE. (a) The [permanent] fund for veterans' assistance is a special fund in the state treasury outside the general revenue fund. The fund is composed of:

(1) money transferred to the fund at the direction of the legislature;

(2) gifts and grants contributed to the fund; and

(3) the [available] earnings of the fund [~~determined in accordance with Section 403.1068~~].

(b) Except as provided by Subsections (c) and (e), money in the fund may not be appropriated for any purpose.

(c) Money in [~~The available earnings of~~] the fund may be appropriated to the Texas Veterans Commission to:

(1) enhance or improve veterans' assistance programs, including veterans' representation and counseling; and

(2) make grants to local communities to address veterans' needs.

(d) The Texas Veterans Commission may adopt rules governing the award of grants by the commission under this section.

(e) The comptroller may solicit and accept gifts and grants to the fund. A gift or grant to the fund may be appropriated in the same manner as other money in [~~the available earnings of~~] the fund, subject to any limitation or requirement placed on the gift or grant by the donor or granting entity.

(f) Sections 403.095 and 404.071 do not apply to the fund.

(b) Section 403.1068(a), Government Code, is amended to read as follows:

(a) This section applies only to management of the permanent funds established under Sections 403.105, 403.1055, 403.106, 403.1065, and 403.1066[~~and 403.108~~].

(c) Effective August 27, 2007, the fund for veterans' assistance is re-created as a special fund in the state treasury outside the general revenue fund, and the fund and the revenue deposited to the credit of the fund are exempt from Section 2 of this Act.

The amendment to Floor Amendment No. 1 to **HB 3107** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 8.

Question recurring on the adoption of Floor Amendment No. 1 to **HB 3107**, the amendment as amended was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 as amended.

On motion of Senator Ogden and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 3107 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 3107 ON THIRD READING

Senator Ogden moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3107** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 1207 ON SECOND READING

On motion of Senator Ogden and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1207** at this time on its second reading:

HB 1207, Relating to corrections to the revised franchise tax transition provisions of House Bill No. 3, 79th Legislature, 3rd Called Session, 2006.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 1207 ON THIRD READING

Senator Ogden moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1207** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**VOTE RECONSIDERED ON
HOUSE BILL 2884**

On motion of Senator West and by unanimous consent, the vote by which **HB 2884** was finally passed was reconsidered:

HB 2884, Relating to juvenile delinquency; providing penalties.

Question — Shall **HB 2884** be finally passed?

Senator Hinojosa offered the following amendment to the bill:

Floor Amendment No. 1 on Third Reading

Amend **HB 2884** on third reading (Senate committee printing) by striking SECTIONS 8 and 9 of the bill (page 5, line 51, through page 6, line 62) and renumbering the subsequent SECTIONS of the bill accordingly.

The amendment to **HB 2884** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 on Third Reading except as follows:

Absent: Ogden.

Senator Hinojosa offered the following amendment to the bill:

Floor Amendment No. 2 on Third Reading

Amend **HB 2884** on third reading (Senate committee printing) in SECTION 12 of the bill, in amended Section 54.04(d), Family Code (page 8, lines 38 through 47), by striking amended Subdivision (2) and substituting the following:

(2) if the court or jury found at the conclusion of the adjudication hearing that the child engaged in delinquent conduct that violates a penal law of this state or the United States of the grade of felony or, if the requirements of Subsection (s) or (t)

are met, of the grade of misdemeanor, and if the petition was not approved by the grand jury under Section 53.045, the court may commit the child to the Texas Youth Commission without a determinate sentence;

The amendment to **HB 2884** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2 on Third Reading except as follows:

Absent: Ogden.

Senator West offered the following amendment to the bill:

Floor Amendment No. 3 on Third Reading

Amend **HB 2884** on third reading (Senate committee printing) as follows:

(1) In SECTION 9, in added Section 51.125(d), Family Code (page 6, line 58), strike "51.12(i)" and substitute "Subsection (c)".

(2) In SECTION 21, strike added Section 58.405, Family Code (page 12, lines 40-43), and substitute:

Sec. 58.405. AUTHORITY CUMULATIVE. The authority granted by this subchapter is cumulative of all other authority granted by this chapter to a county, the commission, or a juvenile justice agency and nothing in this subchapter limits the authority of a county, the commission, or a juvenile justice agency under this chapter to create an information system or to share information related to a juvenile.

(3) Add the following appropriately numbered SECTIONS and renumber subsequent SECTIONS accordingly:

SECTION __. Section 58.007(c), Family Code, is amended to read as follows:

(c) Except as provided by Subsection (d), law enforcement records and files concerning a child and information stored, by electronic means or otherwise, concerning the child from which a record or file could be generated may not be disclosed to the public and shall be:

(1) if maintained on paper or microfilm, kept separate from adult files and records;

(2) if maintained electronically in the same computer system as records or files relating to adults, be accessible under controls that are separate and distinct from controls to access electronic data concerning adults; and

(3) maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subchapters [~~Subchapter~~] B, D, and E.

SECTION __. Article 45.054, Code of Criminal Procedure, is amended by adding Subsection (a-2) to read as follows:

(a-2) An order under Subsection (a) may not require a student to attend a juvenile justice alternative education program.

The amendment to **HB 2884** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 3 on Third Reading except as follows:

Absent: Ogden.

Senator Shapleigh offered the following amendment to the bill:

Floor Amendment No. 4 on Third Reading

Amend **HB 2884** on third reading (Senate committee printing) by adding the following appropriately numbered SECTIONS and renumbering subsequent SECTIONS accordingly:

SECTION ____ . Section 58.302, Family Code, is amended to read as follows:

Sec. 58.302. PURPOSES OF SYSTEM. The purposes of a local juvenile justice information system are to:

(1) provide accurate information at the county or regional level relating to children who come into contact with the juvenile justice system;

(2) assist in the development and delivery of services to children in the juvenile justice system;

(3) assist in the development and delivery of services to children:

(A) who school officials have reasonable cause to believe have committed an offense for which a report is required under Section 37.015, Education Code; or

(B) who have been expelled, the expulsion of which school officials are required to report under Section 52.041;

(4) provide for an efficient transmission of juvenile records from justice and municipal courts to county juvenile probation departments and the juvenile court and from county juvenile probation departments and juvenile court to the state juvenile justice information system created by Subchapter B;

(5) provide efficient computerized case management resources to juvenile courts, prosecutors, court clerks, county juvenile probation departments, and partner agencies authorized by this subchapter;

(6) provide a directory of services available to children to the partner agencies to facilitate the delivery of services to children;

(7) provide an efficient means for municipal and justice courts to report filing of charges, adjudications, and dispositions of juveniles to the juvenile court as required by Section 51.08; and

(8) provide a method for agencies to fulfill their duties under Section 58.108, including the electronic transmission of information required to be sent to the Department of Public Safety by Section 58.110(f).

SECTION ____ . Section 58.303(b), Family Code, is amended to read as follows:

(b) A local juvenile justice information system may contain the following components:

(1) case management resources for juvenile courts, court clerks, prosecuting attorneys, and county juvenile probation departments;

(2) reporting systems to fulfill statutory requirements for reporting in the juvenile justice system;

(3) service provider directories and indexes of agencies providing services to children;

(4) victim-witness notices required under Chapter 57;

(5) electronic filing of complaints or petitions, court orders, and other documents filed with the court, including documents containing electronic signatures;

(6) electronic offense and intake processing;

- (7) case docket management and calendaring;
- (8) communications by email or other electronic communications between partner agencies;
- (9) reporting of charges filed, adjudications and dispositions of juveniles by municipal and justice courts and the juvenile court, and transfers of cases to the juvenile court as authorized or required by Section 51.08;
- (10) reporting to schools under Article 15.27, Code of Criminal Procedure, by law enforcement agencies, prosecuting attorneys, and juvenile courts;
- (11) records of adjudications and dispositions, including probation conditions ordered by the juvenile court; and
- (12) warrant management and confirmation capabilities.

SECTION ____. Section 58.304(b), Family Code, is amended to read as follows:

(b) To the extent possible and subject to Subsections (a) and (d), the local juvenile justice information system may include the following information for each juvenile taken into custody, detained, or referred under this title:

- (1) the juvenile's name, including other names by which the juvenile is known;
- (2) the juvenile's date and place of birth;
- (3) the juvenile's physical description, including sex, weight, height, race, ethnicity, eye color, hair color, scars, marks, and tattoos;
- (4) the juvenile's state identification number and other identifying information;
- (5) the juvenile's fingerprints and photograph;
- (6) the juvenile's last known residential address, including the census tract number designation for the address;
- (7) the name, address, and phone number of the juvenile's parent, guardian, or custodian;
- (8) the name and identifying number of the agency that took into custody or detained the juvenile;
- (9) each date of custody or detention;
- (10) a detailed description of the conduct for which the juvenile was taken into custody, detained, or referred, including the level and degree of the alleged offense;
- (11) the name and identifying number of the juvenile intake agency or juvenile probation office;
- (12) each disposition by the juvenile intake agency or juvenile probation office;
- (13) the date of disposition by the juvenile intake agency or juvenile probation office;
- (14) the name and identifying number of the prosecutor's office;
- (15) each disposition by the prosecutor;
- (16) the date of disposition by the prosecutor;
- (17) the name and identifying number of the court;
- (18) each disposition by the court, including information concerning custody of a juvenile by a juvenile justice agency or county juvenile probation department;

- (19) the date of disposition by the court;
- (20) any commitment or release under supervision by the Texas Youth Commission, including the date of the commitment or release; ~~and~~
- (21) information concerning each appellate proceeding; and
- (22) electronic copies of all documents filed with the court.

SECTION ____ . Section 58.305(a), Family Code, is amended to read as follows:

(a) A local juvenile justice information system shall to the extent possible include the following partner agencies within that county:

- (1) the juvenile court and court clerk;
- (2) justice of the peace and municipal courts;
- (3) the county juvenile probation department;
- (4) the prosecuting attorneys who prosecute juvenile cases in juvenile court, municipal court, or justice court;

(5) law enforcement agencies;

(6) each public school district in the county;

(7) governmental service providers approved by the county juvenile board;

and

(8) governmental placement facilities approved by the county juvenile board.

SECTION ____ . Section 58.306(g), Family Code, is amended to read as follows:

(g) Level 3 Access is by:

(1) the juvenile court and court clerk;

(2) the prosecuting attorney;

(3) the county juvenile probation department;

(4) law enforcement agencies;

(5) governmental service providers that are partner agencies; and

(6) governmental placement facilities that are partner agencies.

SECTION ____ . Sections 58.307(a) and (e), Family Code, are amended to read as follows:

(a) Information that is part of a local juvenile justice information system is not public information and may not be released to the public, except as authorized by law.

(e) Information in a local juvenile justice information system, including electronic signature systems, shall be protected from unauthorized access by a system of access security and any access to information in a local juvenile information system performed by browser software shall be at the level of at least 128-bit encryption. A juvenile board or a regional juvenile board committee shall require all partner agencies to maintain security and restrict access in accordance with the requirements of this title.

SECTION ____ . This Act applies to information and documents relating to juvenile court cases without regard to whether the conduct that is the basis of the case occurred before, on, or after the effective date of this Act.

The amendment to **HB 2884** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 4 on Third Reading except as follows:

Absent: Ogden.

On motion of Senator West and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 2884 as amended was again finally passed by the following vote: Yeas 28, Nays 1.

Nays: Shapiro.

Absent: Harris, Ogden.

**COMMITTEE SUBSTITUTE
HOUSE BILL 3378 ON SECOND READING**

On motion of Senator Brimer and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 3378** at this time on its second reading:

CSHB 3378, Relating to the requirements governing municipal consent to the creation or expansion of certain water districts.

The bill was read second time.

Senator Brimer offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 3378** (Senate committee printing) in SECTION 2 of the bill, in proposed Subsection (i), Section 54.016, Water Code (page 1, line 27), between "(i)" and "A city", by inserting "This subsection applies only to a city with a population of 500,000 or more located in a county with a population of 1.4 million or more in which two or more cities or towns with a population of 300,000 or more are predominately located."

The amendment to **CSHB 3378** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent: Ogden.

On motion of Senator Brimer and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSHB 3378 as amended was passed to third reading by a viva voce vote.

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

Absent: Ogden.

**COMMITTEE SUBSTITUTE
HOUSE BILL 3378 ON THIRD READING**

Senator Brimer moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 3378** be placed on its third reading and final passage.

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

Absent: Ogden.

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

(Senator Brimer in Chair)

HOUSE BILL 2936 ON SECOND READING

On motion of Senator Ellis and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2936** at this time on its second reading:

HB 2936, Relating to exempting certain community development corporations from the Texas Residential Construction Commission Act.

The bill was read second time and was passed to third reading by a viva voce vote.

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

Absent: Ogden.

HOUSE BILL 2936 ON THIRD READING

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2936** be placed on its third reading and final passage.

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

Absent: Ogden.

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

HOUSE BILL 4015 ON SECOND READING

On motion of Senator Williams and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 4015** at this time on its second reading:

HB 4015, Relating to the powers and duties of the East Montgomery County Improvement District; providing authority to impose a tax.

The bill was read second time and was passed to third reading by a viva voce vote.

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

Absent: Ogden.

HOUSE BILL 4015 ON THIRD READING

Senator Williams moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 4015** be placed on its third reading and final passage.

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

Absent: Ogden.

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

**HOUSE CONCURRENT RESOLUTION 151
ON SECOND READING**

On motion of Senator Patrick and by unanimous consent, the regular order of business was suspended to take up for consideration **HCR 151** at this time on its second reading:

HCR 151, Designating the cowboy boot as the official State Footwear of Texas.

The resolution was read second time and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of the resolution except as follows:

Absent: Ogden.

**COMMITTEE SUBSTITUTE
HOUSE BILL 3838 ON SECOND READING**

On motion of Senator Hegar and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 3838** at this time on its second reading:

CSHB 3838, Relating to regulation of injection wells used for in situ uranium recovery by the Texas Commission on Environmental Quality.

The bill was read second time and was passed to third reading by a viva voce vote.

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

Absent: Ogden.

**COMMITTEE SUBSTITUTE
HOUSE BILL 3838 ON THIRD READING**

Senator Hegar moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 3838** be placed on its third reading and final passage.

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

Absent: Ogden.

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 4053 ON SECOND READING**

On motion of Senator Jackson and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 4053** at this time on its second reading:

CSHB 4053, Relating to the creation of the Galveston Grand Beach Management District; providing authority to levy an assessment, impose a tax, and issue bonds.

The bill was read second time and was passed to third reading by a viva voce vote.

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

Absent: Ogden.

COMMITTEE SUBSTITUTE HOUSE BILL 4053 ON THIRD READING

Senator Jackson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 4053** be placed on its third reading and final passage.

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

Absent: Ogden.

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

HOUSE BILL 2198 ON SECOND READING

On motion of Senator Janek and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2198** at this time on its second reading:

HB 2198, Relating to authorizing certain public junior colleges to offer baccalaureate degree programs.

The bill was read second time.

Senator Janek offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **HB 2198** as follows:

(1) In SECTION 1 of the bill, Section 130.0012, Education Code, subsection (b) line 19, between "programs" and "and", insert ":", and strike "and shall authorize baccalaureate degree programs at an additional public junior college if the coordinating board determines that it is in the best interest of this state for that public junior college to offer those degree program after considering the criteria established by the coordinating board under Subsection (e)"

(2) In SECTION 1 of the bill, beginning on page 2, line 12, between "determining" and page 2, line 13 "what", strike "whether a public junior college may offer baccalaureate degree programs and".

(3) In SECTION 1 of the bill, beginning on page 4, line 6, strike "(i) The".

(4) In SECTION 1 of the bill, beginning on page 4, line 7, strike "coordinating board shall establish an application process to select additional public junior colleges that will be authorized to offer baccalaureate degree programs under this section".

(5) Beginning on page 5, line 13, strike SECTION 2 entirely, and renumber subsequent sections accordingly.

The amendment to **HB 2198** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Committee Amendment No. 1 except as follows:

Absent: Ogden.

On motion of Senator Janek and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 2198 as amended was passed to third reading by a viva voce vote.

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

Absent: Ogden.

HOUSE BILL 2198 ON THIRD READING

Senator Janek moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2198** be placed on its third reading and final passage.

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

Absent: Ogden.

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

COMMITTEE SUBSTITUTE HOUSE BILL 3 ON SECOND READING

On motion of Senator Averitt and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 3** at this time on its second reading:

CSHB 3, Relating to the management of the water resources of the state, including the protection of instream flows and freshwater inflows.

The bill was read second time.

Senator Averitt offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 3** as follows:

- (1) On page 8, strike lines 49-59.
- (2) On page 10, strike lines 29-69.
- (3) On page 11, strike lines 1-10.
- (4) On page 12, strike lines 32-40.

Senator Averitt withdrew Floor Amendment No. 1.

Senator Averitt offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSHB 3** (Senate committee printing) by striking SECTION 28 and substituting the following:

SECTION 28. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 2007.

(b) This Act takes effect only if Senate Bill No. 3, Acts of the 80th Legislature, Regular Session, 2007, is enacted and becomes law.

The amendment to **CSHB 3** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2 except as follows:

Absent: Ogden.

Senator Wentworth offered the following amendment to the bill:

Floor Amendment No. 3

Amend **CSHB 3** between the enacting clause and SECTION 1 of the bill by inserting the following SECTIONS and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION 1. Subtitle F, Title 6, Special District Local Laws Code, is amended by adding Chapter 8269 to read as follows:

CHAPTER 8269. TRUE RANCH MUNICIPAL UTILITY DISTRICT NO. 1

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8269.001. DEFINITIONS. In this chapter:

(1) "Board" means the board of directors of the district.

(2) "Director" means a board member.

(3) "District" means the True Ranch Municipal Utility District No. 1.

Sec. 8269.002. NATURE OF DISTRICT. The district is a municipal utility district in Hays County created under and essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

Sec. 8269.003. CONFIRMATION ELECTION REQUIRED. If the creation of the district is not confirmed at a confirmation election held under Section 8269.023 before September 1, 2012:

(1) the district is dissolved September 1, 2012, except that:

(A) any debts incurred shall be paid;

(B) any assets that remain after the payment of debts shall be transferred to Hays County; and

(C) the organization of the district shall be maintained until all debts are paid and remaining assets are transferred; and

(2) this chapter expires September 1, 2015.

Sec. 8269.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) All land and other property in the district will benefit from the works and projects to be accomplished by the district under powers conferred by Section 59, Article XVI, Texas Constitution.

(b) The district is created to serve a public use and benefit.

Sec. 8269.005. INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section 2 of the act creating this chapter.

(b) The boundaries and field notes contained in Section 2 of the act creating this chapter form a closure. A mistake made in the field notes or in copying the field notes in the legislative process does not affect:

- (1) the organization, existence, or validity of the district;
- (2) the right of the district to impose taxes;
- (3) the right of the district to issue bonds, notes, or other indebtedness or to pay the principal of and interest on a bond;
- (4) the validity of the district's bonds, notes, or other indebtedness; or
- (5) the legality or operation of the district or the board.

[Sections 8269.006-8269.020 reserved for expansion]

SUBCHAPTER A-1. TEMPORARY PROVISIONS

Sec. 8269.021. TEMPORARY DIRECTORS. (a) On or after September 1, 2007, a person who owns land in the district may submit a petition to the Texas Commission on Environmental Quality requesting that the commission appoint as temporary directors the five persons named in the petition.

(b) The commission shall appoint as temporary directors the five persons named in the first petition received by the commission under Subsection (a).

(c) If a temporary director fails to qualify for office or if a vacancy occurs in the office of temporary director, the vacancy shall be filled as provided by Section 49.105, Water Code.

(d) Temporary directors serve until the earlier of:

- (1) the date directors are elected under Section 8269.023; or
- (2) the date this chapter expires under Section 8269.003.

Sec. 8269.022. ORGANIZATIONAL MEETING OF TEMPORARY DIRECTORS. As soon as practicable after all the temporary directors have qualified under Section 49.055, Water Code, the directors shall meet at a location in the district agreeable to a majority of the directors. If a location cannot be agreed upon, the meeting shall be at the Hays County Courthouse. At the meeting, the temporary directors shall elect officers from among the temporary directors and conduct any other district business.

Sec. 8269.023. CONFIRMATION AND INITIAL DIRECTORS' ELECTION.

(a) The temporary directors shall hold an election to confirm the creation of the district and to elect five directors as provided by Section 49.102, Water Code.

(b) Section 41.001(a), Election Code, does not apply to a confirmation and initial directors' election held under this section.

Sec. 8269.024. INITIAL ELECTED DIRECTORS; TERMS. The directors elected under Section 8269.023 shall draw lots to determine which two serve until the first regularly scheduled election of directors under Section 8269.052 and which three shall serve until the second regularly scheduled election of directors.

Sec. 8269.025. DATE OF FIRST REGULARLY SCHEDULED ELECTION OF DIRECTORS. The board by order may postpone the first election under Section 8269.052 following the confirmation and initial directors' election held under Section 8269.023 if:

(1) the election would otherwise occur not later than the 60th day after the date on which the confirmation election is held; or

(2) the board determines that there is not sufficient time to comply with the requirements of law and to order the election.

Sec. 8269.026. EXPIRATION OF SUBCHAPTER. This subchapter expires September 1, 2015.

[Sections 8269.027-8269.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8269.051. DIRECTORS; TERMS. (a) The district is governed by a board of five directors.

(b) Directors serve staggered four-year terms.

Sec. 8269.052. ELECTION OF DIRECTORS. On the uniform election date in May of each even-numbered year, the appropriate number of directors shall be elected.

[Sections 8269.053-8269.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8269.101. GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 8269.102. MUNICIPAL UTILITY DISTRICT POWERS AND DUTIES. The district has the powers and duties provided by the general law of this state, including Chapters 49 and 54, Water Code, applicable to municipal utility districts created under Section 59, Article XVI, Texas Constitution.

Sec. 8269.103. ROAD PROJECTS. (a) To the extent authorized by Section 52, Article III, Texas Constitution, the district may construct, acquire, improve, maintain, or operate arterials or main feeder roads or improvements in aid of those roads.

(b) A road project must meet all applicable construction standards, zoning and subdivision requirements, and regulatory ordinances of the municipality or county in whose jurisdiction the district is located.

Sec. 8269.104. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCES OR RESOLUTIONS. Subject to the limitations of Section 54.016, Water Code, the district shall comply with all valid and applicable requirements of any ordinance or resolution adopted by a municipality in the corporate limits or extraterritorial jurisdiction of which the district is located, including an ordinance or resolution adopted before September 1, 2007, that consents to the creation of the district or to the inclusion of lands within the district.

[Sections 8269.105-8269.150 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8269.151. ELECTIONS REGARDING TAXES OR BONDS. (a) Except as provided by Section 8269.201(b), the district may issue, without an election, bonds and other obligations secured by revenue or contract payments from any source other than ad valorem taxation.

(b) The district must hold an election in the manner provided by Chapters 49 and 54, Water Code, to obtain voter approval before the district may impose an operation and maintenance tax or issue bonds payable from ad valorem taxes.

Sec. 8269.152. OPERATION AND MAINTENANCE TAX. (a) If authorized at an election held under Section 8269.151, the district may impose an operation and maintenance tax on taxable property in the district in accordance with Section 49.107, Water Code.

(b) The board shall determine the tax rate. The rate may not exceed the rate approved at the election.

[Sections 8269.153-8269.200 reserved for expansion]

SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

Sec. 8269.201. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. (a) The district may issue bonds or other obligations payable wholly or partly from ad valorem taxes, impact fees, revenue, grants, or other district money, or any combination of those sources, to pay for any authorized district purpose.

(b) The district may not issue bonds to finance projects authorized by Section 8269.103 unless the issuance is approved by a vote of a two-thirds majority of the voters of the district voting at an election called for that purpose.

(c) Bonds or other obligations issued or incurred to finance projects authorized by Section 8269.103 may not exceed one-fourth of the assessed value of the real property in the district.

Sec. 8269.202. TAXES FOR BONDS. At the time bonds payable wholly or partly from ad valorem taxes are issued:

(1) the board shall impose a continuing direct annual ad valorem tax, without limit as to rate or amount, for each year that all or part of the bonds are outstanding; and

(2) the district annually shall impose an ad valorem tax on all taxable property in the district in an amount sufficient to:

(A) pay the interest on the bonds as the interest becomes due;

(B) create a sinking fund for the payment of the principal of the bonds when due or the redemption price at any earlier required redemption date; and

(C) pay the expenses of imposing the taxes.

SECTION 2. The True Ranch Municipal Utility District No. 1 includes all the territory contained in the following area:

BEING ALL THAT CERTAIN TRACT OR PARCEL OF LAND CONTAINING 465.71 ACRES, MORE OR LESS, OF LAND AREA IN THE JOHN INGRAIM SURVEY, ABSTRACT NO. 256, HAYS COUNTY, TEXAS, BEING A PORTION OF THAT TRACT DESCRIBED AS 1279.69 ACRES IN A DEED FROM LESLIE TRUE VESPER ET AL TO LESLIE TRUE VESPER DATED AUGUST 10, 1992 AND RECORDED IN VOLUME 948, PAGE 789 OF THE HAYS COUNTY OFFICIAL PUBLIC RECORDS, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a ½" iron rod found in the southwest line of R.M. Highway No. 2325 and that tract described as an 80' R.O.W. in a deed from Cecil H. Hale, et al to the State of Texas dated August 29, 1956 and recorded in Volume 169, Page 304 of the Hays County Deed Records for the most northerly northwest corner of the panhandle portion of this description and the Vesper 1279.69 acre tract and east corner of that tract described as 592.30 acres in a deed from Leslie True Vesper et al to Ameritrust Texas, N.A., Trustee dated August 10, 1992 and recorded in Volume 949, Page 572 of the Hays County Official Public Records, from which a TXDOT concrete monument found bears N 69°45'42" W 162.75 feet;

THENCE leaving the Ameritrust Texas 592.30 acre tract and the PLACE OF BEGINNING as shown on that plat numbered 24587-06-3-d dated May 30, 2006 prepared for Leslie Vesper by Byrn & Associates, Inc., of San Marcos, Texas with the common northeast line of the Vesper 1279.69 acre tract and southwest line of R.M.

Highway No. 2325 and the State of Texas 80' R.O.W. tract S 69°48'34" E 599.94 feet to a ½" iron rod set for the northwest corner of that tract described as "Tract 1-1.00 acres" in a deed from Thomas W. Slaughter et ux to Randy C. Brown et ux dated February 12, 1996 and recorded in Volume 1206, Page 780 of the Hays County Official Public Records, from which A TXDOT concrete monument found bears S 69°47'57" E 120.11 feet;

THENCE leaving R.M. Highway No. 2325 and the State of Texas 80' R.O.W. tract with the common east line of the Vesper 1279.69 acre tract and west and south lines of the Brown 1.00 acre Tract 1 the following two courses:

1. S 20°06'33" W 226.56 feet to a 2.5" pipe fence corner post found for corner, and

S 69°41'58" E 234.42 feet to a 2" pipe fence corner post found in the west line of that tract described as "Tract 2-5.347 acres" in the previously mentioned deed to Randy C. Brown et ux for the southeast corner of the Brown 1.00 acre Tract 1;

THENCE leaving the Brown 1.00 acre Tract 1 and continuing with the common east line of the Vesper 1279.69 acre tract and west line of the Brown 5.347 acre Tract 2, as fenced and used, the following three courses:

S 00°10'12" E 410.74 feet to a ½" iron rod set at the approximate centerline of an underground pipeline for angle point,

S 00°04'22" E 196.11 feet to a 2.5" pipe fence post found for angle point, and

S 00°24'09" E 15.83 feet to an iron rod found with an aluminum cap stamped "Pro-Tech Eng" at fence corner for the southwest corner of the Brown 5.347 acre Tract 2 and northwest corner of the remaining portion of that tract described as 187.78 acres in a deed from Henry Polvado & Lillie Polvado to Wesley Springs dated May 6, 1983 and recorded in Volume 393, Page 570 of the Hays County Deed Records (the Brown 5.347 acre Tract 2 being a portion of the Springs 187.78 acre tract);

THENCE leaving the Brown 5.347 acre Tract 2 and continuing with the east line of the Vesper 1279.69 acre tract and west line of the Springs 187.78 acre tract, as fenced and used, the following three courses:

S 00°00'57" E 1012.24 feet to a 2.5" pipe fence post found for angle point,

S 00°06'57" W 908.05 feet to a 4" pipe fence corner post found for angle point, and

S 00°03'12" E 354.80 feet to a 4" pipe fence corner post found for the southwest corner of the springs 187.78 acre tract and northwest corner of that tract described as 126.97 acres in a deed from Stanual W. Farris to the Stanual W. Farris Living Trust dated March 10, 2005 and recorded in Volume 2646, Page 385 of the Hays County Official Public Records;

THENCE leaving the Springs 187.78 acre tract and continuing with the common east line of the Vesper 1279.69 acre tract and west line of Farris Living Trust 126.97 acre tract, as fenced and used, the following three courses:

S 00°12'25" W 952.36 feet to a 4" pipe fence post found for angle point,

S 00°09'57"W 1087.12 feet to a 4" cedar post found for angle point, and

S 00°22'11" W 1072.11 feet to a ½" iron rod found at fence corner for the southwest corner of the Farris Living Trust 126.97 acre tract and northwest corner of that tract described as 32.03 acres in a deed from Phil Harris to Shannon Harris dated April 8, 1998 and recorded in Volume 1463, Page 335 of the Hays County Official Public Records;

THENCE leaving the Farris Living Trust 126.97 acre tract and continuing with the common east line of the Vesper 1279.69 acre tract and west line of the Shannon Harris 32.03 acre tract, as fenced and used, S 00°44'10"W 120.44 feet to a 4" cedar fence corner post found for the southwest corner of the Shannon Harris 32.03 acre tract and northwest corner of that tract described as 28.92 acres in a deed from A.J. Farris et ux to Philip D. Farris dated July 18, 1991 and recorded in Volume 882, page 620 of the Hays County Official Public Records;

THENCE leaving the Shannon Harris 32.03 acre tract and continuing with the common east line of the Vesper 1279.69 acre tract and west line of the Philip D. Farris 28.92 acre tract, as fenced and used, S 00°24'02" W 279.19 feet to a ½" iron rod found at fence corner for the southeast corner of this description and northeast corner of that tract described as 52.30 acres in a deed from Leslie True Vesper to Paul R. Eastup et ux dated June 5, 1996 and recorded in Volume 1240, Page 309 of the Hays County Official Public Records (the Eastup 52.30 acre tract being a portion of the Vesper 1279.69 acre tract);

THENCE leaving the Phillip D. Farris 28.92 acre tract and entering the Vesper 1279.69 acre tract with the north line of the Eastup 52.30 acre tract, N 87°10'57" W 1356.38 feet to a ½" iron rod found in fence for the northwest corner of the Eastup 52.03 acre tract and northeast corner of that tract described as 209.16 acres in a deed from Leslie True Vesper to James Nicholas Edwards and Lynn S. Edwards dated July 6, 2005 and recorded in Volume 2719, Page 740 of the Hays County Official Public Record (the Edwards 209.16 acre tract being a portion of the Vesper 1279.69 acre tract);

THENCE leaving the Eastup 52.30 acre tract with the north line of the Edwards 209.16 acre tract, as fenced and used, the following five courses:

N 87°19'31" W 665.61 feet to a 4" pipe fence post found for angle point,

N 86°58'45" W 535.67 feet to a 3" cedar fence post found for angle point,

N 87°09'05" W 302.22 feet to a 3" cedar fence post found for angle point,

N 87°26'23" W 724.92 feet to a 4" cedar fence post found for angle point, and

N 86°46'01" W 426.90 feet to a ½" iron rod found with a plastic cap stamped

"Byrn Survey" in the east line of that tract described as 504.13 acres in a deed from Leslie True Vesper to James L. Pierce and David L. Pierce dated February 8, 1999 and recorded in Volume 1500, Page 452 of the Hays County Official Public Records (the Pierce 504.13 acre tract being a portion of the Vesper 1279.69 acre tract);

THENCE leaving the Edwards 209.16 acre tract with the east line of the Pierce 504.13 acre tract the following two courses:

N 08°19'22" E 124.79 feet to a ½" iron rod found with a plastic cap stamped

"Byrn Survey" for corner, and

N 87°41'56" W 751.30 feet to a ½" iron rod found with a plastic cap stamped

"Byrn Survey" for the southwest corner of this description, an interior corner in the east line of the Pierce 504.13 acre tract, and the south corner of that tract described as

10.59 acres in a deed from Leslie True Vesper to James L. Pierce and David L. Pierce dated June 15, 2001 and recorded in Volume 1872, Page 802 of the Hays County Official Public Records (the Pierce 10.59 acre tract being a portion of the Vesper 1279.69 acre tract);

THENCE leaving the Pierce 504.13 acre tract with the east line of Pierce 10.59 acre tract the following two courses:

N 05°37'42" E (being the bearing basis for description) 734.58 feet to a ½" iron rod found with a plastic cap stamped "Byrn Survey" for angle point, and

N 16°12'16" E 1026.26 feet to a 16" cedar tree stump found in fence in the east line of the previously mentioned Pierce 504.13 acre tract for the north corner of the Pierce 10.59 acre tract;

THENCE leaving the Pierce 10.59 acre tract and continuing with the east line of the Pierce 504.13 acre tract, as fenced and used, the following eight courses:

N 20°34'38" E 42.67 feet to a 16" cedar tree stump found for angle point,

N 15°43'09" E 241.85 feet to a 12" cedar tree stump found for angle point,

N 08°41'46" E 86.90 feet to a 14" cedar tree stump found for angle point,

N 07°33'58" E 244.38 feet to a 2.5" pipe fence post found for angle point,

N 24°14'46" E 623.77 feet to a 6" cedar fence post found for angle point,

N 24°15'46" E 420.45 feet to a 2.5" pipe fence post found for angle point,

N 12°52'45" E 194.02 feet to a 2.5" pipe fence post found for angle point, and

N 01°30'08" E 340.55 feet to a 4" pipe fence corner post found in the south line of the previously mentioned Ameritrust Texas 592.30 acre tract and north line of the Vesper 1279.69 acre tract for the northeast corner of the Pierce 504.13 acre tract and exterior west corner of this description;

THENCE leaving the Pierce 504.13 acre tract with the common north line of the Vesper 1279.69 acre tract, and south line of the Ameritrust Texas 592.30 acre tract, as fenced and used, the following six courses:

N 73°32'00" E 130.18 feet to a 4" pipe fence post found for angle point,

S 48°36'36" E 170.02 feet to a ½" iron rod found for angle point,

S 76°17'07" E 88.03 feet to a 4" pipe fence post found for angle point,

S 86°44'44" E 798.24 feet to a 4" pipe fence post found for angle point,

S 86°55'19" E 913.16 feet to a 4" pipe fence post found for angle point, and

S 86°56'50" E 421.51 feet to a ½" iron rod found for the southeast corner of the Ameritrust Texas 592.30 acre tract and southwest corner of the panhandle portion of this description and the Vesper 1279.69 acre tract;

THENCE leaving the fence with the common west line of the panhandle portion of the Vesper 1279.69 acre tract and east line of the Ameritrust Texas 592.30 acre tract the following two courses:

N 00°00'32" E 1999.62 feet to a ½" iron rod found for angle point, and

N 32°23'54" E 1152.96 feet to the PLACE OF BEGINNING.

THERE are contained within these metes and bounds 465.71 acres, more or less, as prepared from public records and surveys made on the ground in 1999, 2001, 2005 and on May 30, 2006 by Byrn & Associates, Inc., of San Marcos, Texas. All ½" iron rods set are capped with a plastic cap stamped "Byrn Survey".

SECTION 3. (a) The legal notice of the intention to introduce the provisions of this Act relating to the creation of the True Ranch Municipal Utility District No. 1, setting forth the general substance of those provisions, has been published as provided by law, and the notice and a copy of those provisions have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor, one of the required recipients, has submitted the notice and provisions of this Act relating to the creation of the True Ranch Municipal Utility District No. 1 to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to the provisions of this Act relating to the creation of the True Ranch Municipal Utility District No. 1 with the governor, the lieutenant governor, and the speaker of the house of representatives within the required time.

(d) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.

The amendment to **CSHB 3** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 3 except as follows:

Absent: Ogden.

Senator Hinojosa offered the following amendment to the bill:

Floor Amendment No. 4

Amend **CSHB 3** (Senate committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION __. Chapter 49, Water Code, is amended by adding Subchapter O to read as follows:

SUBCHAPTER O. EFFECT OF SUBDIVISION OF NONAGRICULTURAL LAND ON WATER RIGHTS

Sec. 49.501. DEFINITION. In this subchapter, "municipal water supplier" means a municipality or a water supply corporation.

Sec. 49.502. APPLICABILITY. This subchapter applies only to a district, other than a drainage district, located wholly or partly in a county:

- (1) that borders the Gulf of Mexico and the United Mexican States; or
- (2) that is adjacent to a county described by Subdivision (1).

Sec. 49.503. PETITION BY MUNICIPAL WATER SUPPLIER TO CONVERT WATER USE AFTER SUBDIVISION. (a) This section applies only to land:

(1) that is:

(A) subdivided into town lots or blocks or small parcels of the same general nature as town lots or blocks;

(B) designed, intended, or suitable for residential or other nonagricultural purposes, including streets, alleys, parkways, parks, detention or retention ponds, and railroad property and rights-of-way; or

(C) in a subdivision created to meet the requirements of a governmental entity authorized to require a recorded plat of subdivided lands;

(2) that is in a subdivision for which a plat or map has been filed and recorded in the office of the county clerk of each county in which the subdivision is wholly or partly located; and

(3) that is or was assessed as flat rate irrigable property in the municipal water supplier's certificated service area or its corporate area.

(b) A municipal water supplier that serves land described by Subsection (a) may petition the district in accordance with this section to convert the proportionate irrigation water right to the Rio Grande from irrigation use to municipal use with municipal priority of allocation under commission rules, for the use and benefit of the municipal supplier.

(c) The municipal water supplier must file the petition with the district not later than January 1 after the expiration of two years after the date the plat or map was recorded under Subsection (a). The district shall consider the petition not later than January 31 of the year following the year in which the petition was filed.

(d) The petition must identify by subdivision name or other sufficient description the land that the municipal water supplier supplies or has the right to supply potable water.

(e) This section applies only to one subdivision of the land recorded under Subsection (a). This section does not apply to any further subdivision of the same property.

Sec. 49.504. EFFECT OF MUNICIPAL WATER SUPPLIER'S FAILURE TO FILE A PETITION. (a) If a municipal water supplier does not file a petition under Section 49.503, the district may retain the water rights for use by the district or may declare the water as excess and contract for the sale or use of the water as determined by the district.

(b) Before a district may contract for the sale or use of water for more than one year with a purchaser located outside of a county described by Section 49.502, the district must, for 90 days:

(1) make the water available under the same terms to all municipal water suppliers located in those counties; and

(2) advertise the offer to sell or contract for the use of the water by posting notice on:

(A) any website of the Rio Grande Watermaster's Office;

(B) any website of the Rio Grande Regional Water Authority; and

(C) the official posting place for the district's board meetings at the district's office.

(c) If, after the 90th day after the last date on which the district posted notice, a municipal water supplier in a county described by Section 49.502 has not contracted with the district for the sale or use of the water, the district may contract with any other person for the sale or use of the water under the terms of the offer advertised under Subsection (b).

Sec. 49.505. CALCULATION OF PROPORTIONATE WATER RIGHTS. A district that receives a petition under Section 49.503 shall compute the proportionate amount of water rights to the Rio Grande. The proportionate amount of water rights is equal to the amount of irrigable acres of land in the subdivision multiplied by the lesser of:

(1) 1.25 acre-feet per irrigable acre; or

(2) the sum of all irrigation water rights owned by the district on September 1, 2007, as if the water rights had been converted to municipal use under applicable commission rules, divided by the total amount of irrigable acres of land in the district on September 1, 2007.

Sec. 49.506. PROVISION OR CONVERSION OF PROPORTIONATE WATER RIGHTS BY DISTRICT. (a) Not later than the second anniversary of the date the municipal water supplier files a petition under Section 49.503:

(1) a district shall provide the municipal water supplier with the proportionate water rights described by Section 49.505 from the district's existing water rights; or

(2) a district shall, if the district does not have sufficient existing water rights:

(A) apply for appropriate amendments to the district's water rights under commission rules to convert the proportionate water rights from irrigation use to municipal use with municipal priority of allocation; and

(B) provide to the municipal water supplier the converted rights described by Section 49.505.

(b) The district may continue to use the irrigation use water for district purposes until:

(1) the commission approves the amendment to the district's water rights; or

(2) the water is otherwise provided to the municipal water supplier.

(c) A district that applies for appropriate amendments under Subsection (a)(2) shall provide the municipal water supplier with an estimate of the district's reasonable costs for the administrative proceedings. The district is not required to begin the proceedings until the municipal water supplier deposits the amount of the estimate with the district. The municipal water supplier shall pay the district any reasonable costs that exceed the estimate. The district shall refund the balance of the deposit if the actual cost is less than the estimate.

Sec. 49.507. CONTRACT TO PURCHASE PROPORTIONATE WATER RIGHTS; WATER RIGHTS SALE CONTRACT. (a) A municipal water supplier may contract to purchase the proportionate water rights described by Section 49.505.

(b) The purchase price may not exceed 68 percent of the current market value, as determined under Section 49.509, for the year that the municipal water supplier petitions the district.

(c) The contract must be in writing in a document entitled "Water Rights Sales Contract."

(d) The contract must include the purchase price for the water rights or, if the consideration for the sale is not monetary, the terms of the sale.

(e) The municipal water supplier shall file the contract with the Rio Grande watermaster not later than the 10th day after the date the contract is executed.

(f) The municipal water supplier shall pay the purchase price when the proportionate amount of water rights is made available to the municipal water supplier.

Sec. 49.508. CONTRACT TO USE PROPORTIONATE WATER RIGHTS; WATER SUPPLY CONTRACT. (a) A municipal water supplier may contract to use water associated with the proportionate water rights described by Section 49.505.

(b) The contract must be for at least 40 years.

(c) The price for the contractual right to use the municipal use water is based on an amount for one acre-foot of municipal use water with a municipal use priority of allocation and may not exceed the sum of:

(1) an amount equal to the district's annual flat rate charge per assessed acre; and

(2) the equivalent of the charge for four irrigations per flat rate acre of irrigable property in the district.

(d) The parties to the contract shall agree on the terms of payment of the contract price.

(e) The board periodically shall determine the flat rate charge and irrigation per acre charge described by Subsection (c).

(f) The contract must be in writing in a document entitled "Water Supply Contract." The contract may contain any terms to which the parties agree.

(g) The municipal water supplier shall file the contract with the Rio Grande watermaster not later than the 10th day after the date the contract is executed.

Sec. 49.509. DUTY OF RIO GRANDE REGIONAL WATER AUTHORITY TO CALCULATE CURRENT MARKET VALUE. (a) The Rio Grand Regional Water Authority annually at its January meeting shall calculate the current market value by using the average price per acre-foot of municipal use water after conversion from irrigation use water to municipal use water with a municipal priority of allocation under commission rules of the last three purchases involving:

(1) a municipal water supplier;

(2) a party other than a municipal water supplier; and

(3) at least 100 acre-feet of municipal use water, with municipal priority of allocation.

(b) The Rio Grande Regional Water Authority shall use information from the water rights sales contracts reported to the Rio Grande Watermaster's Office to calculate the current market value.

(c) The Rio Grande Regional Water Authority shall make the calculation:

(1) without charging any of the parties involved; and

(2) using 100 percent of the value of monetary exchanges, not in-kind exchanges.

Sec. 49.510. ACCOUNTING FOR SALE OF WATER RIGHTS. A district shall maintain an accounting of money received from the sale of water rights under this subchapter.

Sec. 49.511. CAPITAL IMPROVEMENTS. A district shall designate at least 75 percent of the proceeds from the sale of water rights for capital improvements in the district.

Sec. 49.512. MAP OF SERVICE AREA. (a) In this section, "outer boundaries of a district" means district boundaries without considering any exclusion of land from inside the district.

(b) Each municipal water supplier that has a certificate of convenience and necessity service area in the outer boundaries of a district shall file a map of the service area with the district.

(c) The municipal water supplier shall update the map and forward the map to the district when changes are made.

(d) A district periodically shall provide to a municipal water supplier that serves territory in the district a copy of the district's map showing the outer boundaries of the district.

(e) A district may request from a municipal water supplier a map of the municipal suppliers's service area, and a municipal water supplier may request from the district a map of the district's outer boundaries. On request, the district and a municipal water supplier shall provide the map free of charge to each other at least one time each year. If the district or municipal water supplier receives more than one request a year for a map, the district or municipal water supplier may charge a reasonable fee for the map.

SECTION __. Subchapter O, Chapter 49, Water Code, as added by this Act, applies only to a subdivision for which a plat or map has been recorded in the office of the county clerk of a county on or after the effective date of this Act. A subdivision for which a plat or map was recorded before the effective date of this Act is covered by the law in effect on the date the plat or map was recorded, and the former law is continued in effect for that purpose.

The amendment to **CSHB 3** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 4 except as follows:

Absent: Ogden.

Senator Shapleigh offered the following amendment to the bill:

Floor Amendment No. 5

Amend **CSHB 3** (Senate committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill appropriately:

SECTION __. Sections 16.315 and 16.319, Water Code, are amended to read as follows:

SEC. 16.315. POLITICAL SUBDIVISIONS; COMPLIANCE WITH FEDERAL REQUIREMENTS. All political subdivisions are hereby authorized to take all necessary and reasonable actions that are not less stringent than ~~[to comply with]~~ the requirements and criteria of the National Flood Insurance Program, including but not limited to:

- (1) making appropriate land use adjustments to constrict the development of land which is exposed to flood damage and minimize damage caused by flood losses;
- (2) guiding the development of proposed future construction, where practicable, away from a location which is threatened by flood hazards;

- (3) assisting in minimizing damage caused by floods;
- (4) authorizing and engaging in continuing studies of flood hazards in order to facilitate a constant reappraisal of the flood insurance program and its effect on land use requirements;
- (5) engaging in floodplain management, ~~and~~ adopting and enforcing permanent land use and control measures that are not less stringent than those [consistent with the criteria] established under the National Flood Insurance Act, and providing for the imposition of penalties on landowners who violate this subchapter or rules adopted or orders issued under this subchapter;
- (6) declaring property, when such is the case, to be in violation of local laws, regulations, or ordinances which are intended to discourage or otherwise restrict land development or occupancy in flood-prone areas and notifying the director, or whomever the director designates, of such property;
- (7) consulting with, giving information to, and entering into agreements with the Federal Emergency Management Agency for the purpose of:
 - (A) identifying and publishing information with respect to all flood areas, including coastal areas; and
 - (B) establishing flood-risk zones in all such areas and making estimates with respect to the rates of probable flood-caused loss for the various flood-risk zones for each of these areas;
- (8) cooperating with the director's studies and investigations with respect to the adequacy of local measures in flood-prone areas as to land management and use, flood control, flood zoning, and flood damage prevention;
- (9) taking steps, using regional, watershed, and multi-objective approaches, to improve the long-range management and use of flood-prone areas;
- (10) purchasing, leasing, and receiving property from the director when such property is owned by the federal government and lies within the boundaries of the political subdivision pursuant to agreements with the Federal Emergency Management Agency or other appropriate legal representative of the United States Government;
- (11) requesting aid pursuant to the entire authorization from the commission;
- (12) satisfying criteria adopted and promulgated by the commission pursuant to the National Flood Insurance Program;
- (13) adopting permanent land use and control measures with enforcement provisions that are not less stringent than [which are consistent with] the criteria for land management and use adopted by the director;
- (14) adopting more comprehensive floodplain management rules that the political subdivision determines are necessary for planning and appropriate to protect public health and safety;
- (15) participating in floodplain management and mitigation initiatives such as the National Flood Insurance Program's Community Rating System, Project Impact, or other initiatives developed by federal, state, or local government; and
- (16) collecting reasonable fees to cover the cost of administering a local floodplain management program.

Sec. 16.319. QUALIFICATION. Political subdivisions wishing to qualify under the National Flood Insurance Program shall have the authority to do so by complying with the directions of the Federal Emergency Management Agency and by:

(1) evidencing to the director a positive interest in securing flood insurance coverage under the National Flood Insurance Program; and

(2) giving to the director satisfactory assurance that measures will have been adopted for the political subdivision that ~~[which measures]~~ will be not less stringent than ~~[consistent with]~~ the comprehensive criteria for land management and use developed by the Federal Emergency Management Agency.

The amendment to **CSHB 3** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 5 except as follows:

Absent: Ogden.

Senator Williams offered the following amendment to the bill:

Floor Amendment No. 6

Amend **CSHB 3** by adding the following SECTIONS to the bill and by renumbering any subsequent SECTIONS accordingly:

SECTION ____ . Chapter 26, Water Code, is amended by adding Subchapter N to read as follows:

SUBCHAPTER N. SAN JACINTO RIVER WATER QUALITY PROTECTION AREA

Sec. 26.601. DEFINITIONS. In this subchapter:

(1) "Operator" means any person engaged in or responsible for the physical operation and control of a quarry.

(2) "Owner" means any person holding title, wholly or partly, to the land on which a quarry exists or has existed.

(3) "Pit" means an open excavation from which sand or gravel has been or is being extracted from a depth of five feet or more below the adjacent and natural ground level.

(4) "Quarry" means the site from which sand or gravel for commercial sale or use is being or has been removed or extracted from the earth to form a pit, including the entire excavation, stripped areas, haulage ramps, and the immediately adjacent land on which a plant processing the sand or gravel is located.

(5) "Responsible party" means the owner, operator, lessor, or lessee who is responsible for the overall function and operation of a quarry.

(6) "San Jacinto water quality protection area" means territory located one-half mile or less from:

(A) that portion of the East Fork of the San Jacinto River from State Highway 105 downstream to Lake Houston;

(B) that portion of the West Fork of the San Jacinto River from Interstate Highway 45 downstream to Lake Houston; and

(C) Spring Creek from its most easterly intersection with Farm-to-Market Road 1736 downstream to its confluence with the West Fork of the San Jacinto River.

(7) "Water quality protection area" means territory located one-half mile or less from a river the water quality of which is threatened by activities at a quarry.

Sec. 26.602. APPLICABILITY; PILOT PROGRAM. (a) This subchapter applies only to sand and gravel quarries located in a water quality protection area designated by commission rule.

(b) This subchapter does not apply to:

(1) permitting, construction, or operation of a municipal solid waste landfill or other solid waste facility regardless of whether the facility includes an excavation that is associated with past quarrying activities; or

(2) an excavation, pit, or quarry associated with or related to the operations of a municipal solid waste landfill or other solid waste facility, regardless of the material extracted from or the depth of the excavation, pit, or quarry.

(c) This subchapter does not apply to an activity, facility, or operation regulated under Chapter 134, Natural Resources Code.

(d) For the period of September 1, 2007, to September 1, 2027, the commission shall apply this subchapter only as a pilot program in the San Jacinto water quality protection area.

Sec. 26.603. REGULATION OF QUARRIES WITHIN WATER QUALITY PROTECTION AREA. (a) The commission by rule shall require a responsible party to obtain an authorization to use a general permit under Section 26.040 for any discharges from a quarry any part of which is located in a water quality protection area designated under this subchapter.

(b) Except as provided by Subsection (c), the commission by rule shall prohibit the construction or operation of a new quarry and the expansion of an existing quarry if the new or existing quarry is to be or is located 100 feet or less from a stream that is in a water quality protection area designated under this subchapter.

(c) A quarry that is covered by a permit issued by the United States Army Corps of Engineers under Section 404 of the federal Clean Water Act (33 U.S.C. Section 1344) may operate within 100 feet of a stream if that permit authorizes the operation, regardless of whether the quarry is located in a water quality protection area designated under this subchapter.

(d) The commission by rule shall establish performance criteria and requirements for the general permit required under Subsection (a) to address:

(1) slope gradients that minimize the potential for erosion of quarry walls and banks into the surface waters and related water quality considerations;

(2) potential effects on areas subject to frequent flooding and related risks to public safety and property;

(3) the control of surface water drainage and water accumulation to prevent:

(A) erosion, siltation, or runoff; and

(B) damage to public or private property; and

(4) closure of a quarry, after quarry activities have ended, consistent with best management standards and practices adopted by the commission for quarry stabilization and reuse, which may include soil stabilization and compacting, grading, erosion control measures, removal of waste, debris, and structures, and revegetation.

(e) The commission by rule shall establish requirements for financial responsibility that are adequate to protect the water resources in the water quality protection area and include those requirements in the general permit required under Subsection (a).

(f) In addition to any other requirements established by commission rule under Subsections (d) and (e), the responsible party for a quarry located in a water quality protection area who is required to obtain an authorization to use a general permit shall include with an application filed with the commission for the authorization:

(1) a proposed plan of action for how the responsible party will restore a receiving water body to background conditions in the event of an unauthorized discharge that affects the water body; and

(2) a proposed plan of action for how the responsible party will close the quarry, consistent with commission standards, that includes:

(A) a description of the natural state of the land surrounding the quarry to which state the quarry will be restored, or the specific land use proposed for the quarry site; and

(B) a schedule within which the effort to close the quarry may reasonably be required to be completed after quarry activities have ended.

Sec. 26.604. FINANCIAL RESPONSIBILITY; VIOLATION. (a) The commission by rule shall adopt requirements for maintaining acceptable evidence of financial responsibility for:

(1) restoration of a water body affected by an unauthorized discharge from a permitted quarry;

(2) taking corrective action for and compensating for water quality effects caused by an unauthorized discharge resulting from quarrying; and

(3) implementing an approved quarry closure and reuse plan if the responsible party is unwilling or unable to meet the requirements of the plan.

(b) A responsible party may not operate a permitted quarry knowing that acceptable evidence of financial responsibility has not been maintained.

Sec. 26.605. INSPECTIONS OF AND SAMPLING OF WATER IN PILOT AREA. (a) To detect potential violations of this subchapter in the San Jacinto water quality protection area, the commission, the San Jacinto River Authority, and the Parks and Wildlife Department shall coordinate efforts to conduct:

(1) visual inspections of the water quality protection area; and

(2) analyses of surface water samples from the San Jacinto River and its tributaries subject to this subchapter.

(b) The visual inspections and analyses of water samples must be conducted at least twice annually. At least once each year, an inspection of the San Jacinto water quality protection area must be conducted from an aircraft flying over the area.

Sec. 26.606. UNAUTHORIZED DISCHARGES OF CERTAIN WASTES WITHIN WATER QUALITY PROTECTION AREA; ENFORCEMENT. (a) The commission shall enforce this subchapter and impose administrative and civil penalties as authorized by this code for discharges from a quarry in violation of this subchapter or of any commission rule.

(b) In addition to the administrative penalties and other available remedies or causes of action, the commission may seek injunctive relief in the district courts of Travis County to require:

(1) the temporary or permanent closure of a quarry operated without authorization required under this subchapter;

(2) the temporary or permanent closure of a permitted quarry under this subchapter for which acceptable evidence of financial responsibility is not maintained;

(3) the temporary or permanent closure of any quarry responsible for an unauthorized discharge; or

(4) corrective action by the responsible party for a quarry that is responsible for an unauthorized discharge.

Sec. 26.607. EMERGENCY ORDERS. The commission may issue a temporary or emergency order under Section 5.509 relating to a discharge of waste or pollutants from a quarry into or adjacent to water in a water quality protection area designated under this subchapter.

Sec. 26.608. RECOVERY OF COSTS FOR UNAUTHORIZED DISCHARGES WITHIN WATER QUALITY PROTECTION AREA. If the commission has incurred any costs in undertaking a corrective or enforcement action with respect to an unauthorized discharge from a quarry under this subchapter, including a reclamation or restoration action, the responsible party is liable to this state for all reasonable costs of the corrective or enforcement action, including court costs and reasonable attorney's fees, and for any punitive damages that may be assessed by the court.

Sec. 26.609. COOPERATION WITH OTHER STATE AGENCIES. (a) The commission is the principal authority in this state on matters relating to the implementation of this subchapter. All other state agencies engaged in water quality or water pollution control activities in a water quality protection area designated under this subchapter shall coordinate those activities with the commission.

(b) The executive director, with the consent of the commission, may enter into contracts, memoranda of understanding, or other agreements with other state agencies for purposes of developing requirements, including requirements for financial responsibility, for inclusion in any general permit required by this subchapter that are adequate to protect the water resources in the water quality protection area.

Sec. 26.610. WATER QUALITY PROTECTION AREA REPORTS. (a) On or before December 1, 2008, the commission shall prepare a report describing its implementation of this subchapter and provide copies of the report to the governor, lieutenant governor, and speaker of the house of representatives.

(b) Beginning December 1, 2010, and on December 1 of each succeeding even-numbered year, the commission shall deliver a report to the governor, lieutenant governor, and speaker of the house of representatives evaluating the implementation and operation of the water quality protection permitting and enforcement programs developed under this subchapter.

(c) At the discretion of the commission, the report under Subsection (b) may be consolidated with any other appropriate agency biennial report, including the report required under Subchapter M, except that information specific to any water quality protection area designated under this subchapter must be clearly identified.

Sec. 26.611. EXPIRATION. This subchapter expires September 1, 2027.

SECTION ____. (a) The Texas Commission on Environmental Quality shall adopt rules to implement Subchapter N, Chapter 26, Water Code, as added by this Act, as soon as practicable.

(b) A responsible party required to obtain an authorization to use a general permit described by Subchapter N, Chapter 26, Water Code, as added by this Act, shall submit an application for the authorization on or before the 180th day after the date rules of the Texas Commission on Environmental Quality adopted under that subchapter take effect.

The amendment to **CSHB 3** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 6 except as follows:

Absent: Ogden.

Senator Shapleigh offered the following amendment to the bill:

Floor Amendment No. 7

Amend **CSHB 3** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION ____. (a) In this section, "board" means the Texas Water Development Board.

(b) The board, in coordination with the Far West Texas Regional Water Planning Group established pursuant to Section 16.053, Water Code, shall conduct a study regarding the possible impact of climate change on surface water supplies from the Rio Grande.

(c) In conducting the study, the board shall convene a conference within the Far West Texas regional water planning area designated pursuant to Section 16.053, Water Code, to review:

(1) any analysis conducted by a state located to the west of this state regarding the impact of climate change on surface water supplies in that state;

(2) any other current analysis of potential impacts of climate change on surface water resources; and

(3) recommendations for incorporation of potential impacts of climate change into the Far West Texas Regional Water Plan, including potential impacts to the Rio Grande in Texas subject to the Rio Grande Compact and identification of feasible water management strategies to offset any potential impacts.

(d) The conference should include, but not be limited to, the participation of representatives of:

(1) the Far West Texas Regional Water Planning Group;

(2) water authorities;

(3) industrial customers;

(4) agricultural interests;

(5) municipalities;

(6) fishing or recreational interests;

(7) environmental advocacy organizations; and

(8) institutions of higher education.

(e) Not later than December 31, 2008, the board shall submit to the legislature a written report regarding the study findings under Subsection (b) of this section.

The amendment to **CSHB 3** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 7 except as follows:

Absent: Ogden.

Senator Hegar offered the following amendment to the bill:

Floor Amendment No. 8

Amend **CSHB 3** by adding the following as a new Article and numbering it and all sections appropriately:

ARTICLE _____. EDWARDS AQUIFER AUTHORITY.

SECTION _____. Subsection (f), Section 1.11, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

(f) The authority may own, finance, design, ~~[contract with a person who uses water from the aquifer for the authority or that person to]~~ construct, operate, or ~~[own, finance, and]~~ maintain recharge [water supply] facilities. ~~[Management fees or special fees may not be used for purchasing or operating these facilities.]~~ For the purpose of this subsection, "recharge [water supply] facility" means ~~[includes]~~ a dam, reservoir, ~~[treatment facility, transmission facility,]~~ or other method of recharge project and associated facilities, structures, or works but does not include a facility to recirculate water at Comal or San Marcos Springs.

(1) The authority shall provide written notice of the intent to own, finance, design, construct, operate, or maintain recharge facilities to:

(a) each groundwater conservation district in the area in which the recharge facility will be located;

(b) the mayor of each municipality in the area in which the recharge facility will be located;

(c) the county judge of each county in the area in which the recharge facility will be located; and

(d) each member of the legislature who represents the area in which the proposed recharge facility will be located.

(2) Any entity within the county in which a recharge facility is to be constructed will be provided opportunity for input and allowed to provide proposals for partnering with the authority to own, finance, design, construct, operate, or maintain these recharge facilities.

SECTION _____. Subsections (a), (c), (e), (f), and (h), Section 1.14, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, are amended to read as follows:

(a) Authorizations to withdraw water from the aquifer and all authorizations and rights to make a withdrawal under this Act shall be limited in accordance with this section to:

(1) protect the water quality of the aquifer;

(2) protect the water quality of the surface streams to which the aquifer provides springflow;

- (3) achieve water conservation;
- (4) maximize the beneficial use of water available for withdrawal from the aquifer;
- (5) recognize the extent of the hydro-geologic connection and interaction between surface water and groundwater;
- (6) protect aquatic and wildlife habitat;
- (7) ~~(6)~~ protect species that are designated as threatened or endangered under applicable federal or state law; and
- (8) ~~(7)~~ provide for instream uses, bays, and estuaries.

(c) Except as provided by Subsections ~~(d)~~ (f) and (h) of this section and Section 1.26 of this article, for the period beginning January 1, 2008, the amount of permitted withdrawals from the aquifer may not exceed or be less than 572,000 [400,000] acre-feet of water for each calendar year, which is the sum of all regular permits issued or for which an application was filed and issuance was pending action by the authority as of January 1, 2005.

(e) The authority may not allow withdrawals from the aquifer through wells drilled after June 1, 1993, except for replacement, test, or exempt wells or to the extent that the authority approves an amendment to an initial regular permit to authorize a change in the point of withdrawal under that permit [additional water as provided by Subsection (d) and then on an interruptible basis].

(f) If the level of the aquifer is equal to or greater than 660 [650] feet above mean sea level as measured at Well J-17, the authority may authorize withdrawal from the San Antonio pool, on an uninterruptible basis, of permitted amounts. If the level of the aquifer is equal to or greater than 845 feet at Well J-27, the authority may authorize withdrawal from the Uvalde pool, on an uninterruptible basis, of permitted amounts. [The authority shall limit the additional withdrawals to ensure that springflows are not affected during critical drought conditions.]

(h) To accomplish the purposes of this article, ~~[by June 1, 1994,]~~ the authority, through a program, shall implement and enforce water management practices, procedures, and methods to ensure that, not later than December 31, 2012, the continuous minimum springflows of the Comal Springs and the San Marcos Springs are maintained to protect endangered and threatened species to the extent required by federal law and to achieve other purposes provided by Subsection (a) of this section and Section 1.26 of this article. The authority from time to time as appropriate may revise the practices, procedures, and methods. To meet this requirement, the authority shall require:

- (1) phased adjustments to [reductions in] the amount of water that may be used or withdrawn by existing users or categories of other users, including adjustments in accordance with the authority's critical period management plan established under Section 1.26 of this article; or
- (2) implementation of alternative management practices, procedures, and methods.

SECTION _____. Subsection (g), Section 1.16, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

(g) The authority shall issue an initial regular permit without a term, and an initial regular permit remains in effect until the permit is abandoned or^[7] cancelled~~[- or retired]~~.

SECTION _____. Subsection (b), Section 1.19, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

(b) Withdrawal of water under a term permit must be consistent with the authority's critical period management plan established under Section 1.26 of this article. A holder of a term permit may not withdraw water from the San Antonio pool of the aquifer unless:

(1) the level of the aquifer is higher than 675 ~~[665]~~ feet above sea level, as measured at Well J-17;

(2) the flow at Comal Springs as determined by Section 1.26(c) of this article is greater than 350 cubic feet per second; and

(3) the flow at San Marcos Springs as determined by Section 1.26(c) of this article is greater than 200 cubic feet per second.

SECTION _____. Subsection (a), Section 1.22, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

(a) The authority may acquire permitted rights to use water from the aquifer for the purposes of:

(1) holding those rights in trust for sale or transfer of the water or the rights to persons within the authority's jurisdiction who may use water from the aquifer;

(2) holding those rights in trust as a means of managing overall demand on the aquifer; or

(3) holding those rights for resale ~~[or retirement as a means of complying with pumping reduction requirements under this article; or~~

~~[(4) retiring those rights, including those rights already permitted].~~

SECTION _____. Article 1, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended by amending Section 1.26 and adding Section 1.26A to read as follows:

Sec. 1.26. CRITICAL PERIOD MANAGEMENT PLAN. (a) After review of the recommendations received in the program document, as prescribed by Section 1.26A of this article, the [The] authority by rule shall adopt [prepare and coordinate implementation of] a [plan for] critical period management plan consistent with Sections 1.14(a), (f), and (h) of this article [on or before September 1, 1995]. The critical period management plan shall be adopted by the authority no later than six months after the authority's receipt of the program document. On adoption of the critical period management plan, the authority shall provide a written report to the governor, lieutenant governor, and speaker of the house of representatives describing the actions taken in response to each recommendation and, for each recommendation not implemented, the reason it was not implemented. The plan [mechanisms] must:

(1) distinguish between discretionary use and nondiscretionary use;

(2) require reductions of all discretionary use to the maximum extent feasible;

(3) require utility pricing, to the maximum extent feasible, to limit discretionary use by the customers of water utilities; ~~[and]~~

(4) require reduction of nondiscretionary use by permitted or contractual users, to the extent further reductions are necessary, in the reverse order of the following water use preferences:

- (A) municipal, domestic, and livestock;
- (B) industrial and crop irrigation;
- (C) residential landscape irrigation;
- (D) recreational and pleasure; and
- (E) other uses that are authorized by law; and

(5) allow irrigation use to continue in order to permit the user to complete the irrigation of a crop in progress.

(b) In this section, "MSL" means the elevation above mean sea level, measured in feet, of the surface of the water in a well, and "CFS" means cubic feet per second. Not later than January 1, 2008, the authority shall, by rule, adopt and enforce a critical period management plan with withdrawal reduction percentages in the amounts indicated in Tables 1 and 2 whether according to the index well levels or the Comal or San Marcos Springs flow as applicable, for a total in critical period Stage IV of 40 percent of the permitted withdrawals under Table 1 and 35 percent under Table 2:

TABLE 1
CRITICAL PERIOD WITHDRAWAL REDUCTION STAGES
FOR THE SAN ANTONIO POOL

<u>Comal Springs Flow CFS</u>	<u>San Marcos Springs Flow CFS</u>	<u>Index Well J-17 Level MSL</u>	<u>Critical Period Stage</u>	<u>Withdrawal Reduction-San Antonio Pool</u>
<u><225</u>	<u><96</u>	<u><660</u>	<u>I</u>	<u>20%</u>
<u><200</u>	<u><80</u>	<u><650</u>	<u>II</u>	<u>30%</u>
<u><150</u>	<u>N/A</u>	<u><640</u>	<u>III</u>	<u>35%</u>
<u><100</u>	<u>N/A</u>	<u><630</u>	<u>IV</u>	<u>40%</u>

TABLE 2
CRITICAL PERIOD WITHDRAWAL REDUCTION STAGES
FOR THE UVALDE POOL

<u>Withdrawal Reduction-Uvalde Pool</u>	<u>Index Well J-27 Level MSL</u>	<u>Critical Period Stage</u>
<u>N/A</u>	<u>---</u>	<u>I</u>
<u>5%</u>	<u><850</u>	<u>II</u>
<u>20%</u>	<u><845</u>	<u>III</u>
<u>35%</u>	<u><842</u>	<u>IV</u>

(c) A change to a critical period stage with higher withdrawal reduction percentages is triggered if the 10-day average of daily springflows at the Comal Springs or the San Marcos Springs or the 10-day average of daily aquifer levels at the J-17 Index Well drops below the lowest number of any of the trigger levels indicated in Table 1. A change to a critical period stage with lower withdrawal reduction percentages is triggered only when the 10-day average of daily springflows at the Comal Springs and the San Marcos Springs and the 10-day average of daily aquifer

levels at the J-17 Index Well are all above the same stage trigger level. The authority may adjust the withdrawal percentages for Stage IV in Tables 1 and 2 if necessary in order to comply with Subsection (d) or (e) of this section.

(d) Beginning September 1, 2007, the authority may not require the volume of permitted withdrawals to be less than an annualized rate of 340,000 acre-feet, under critical period Stage IV.

(e) After January 1, 2013, the authority may not require the volume of permitted withdrawals to be less than an annualized rate of 320,000 acre-feet, under critical period Stage IV unless, after review and consideration of the recommendations provided under Section 1.26A of this article, the authority determines that a different volume of withdrawals is consistent with Sections 1.14(a), (f), and (h) of this article in maintaining protection for listed, protected and endangered species associated with the aquifer to the extent required by federal law.

(f) Notwithstanding Subsections (d) and (e) of this section, the authority may require further withdrawal reductions before reviewing and considering the recommendations provided under Section 1.26A of this article if the discharge of Comal Springs or San Marcos Springs declines an additional 15 percent after Stage IV withdrawal reductions are imposed under Subsection (b) of this section. This subsection expires on the date that critical period management plan rules adopted by the authority based on the recommendations provided under Section 1.26A of this article take effect.

(g) Notwithstanding the existence of any stage of an interim or final critical period adopted by the authority under this section, a person authorized to withdraw groundwater from the aquifer for irrigation purposes shall, without regard to the withdrawal reductions prescribed for that stage, be allowed to finish a crop already planted in the calendar year during which the critical period is in effect.

Sec. 1.26A. DEVELOPMENT OF WITHDRAWAL REDUCTION LEVELS AND STAGES FOR CRITICAL PERIOD MANAGEMENT THROUGH RECOVERY IMPLEMENTATION PROGRAM. (a) The authority, with the assistance of Texas A&M University, shall cooperatively develop a recovery implementation program through a facilitated, consensus-based process that involves input from the United States Fish and Wildlife Service, other appropriate federal agencies, and all interested stakeholders, including those listed under Subsection (e)(1) of this section. The recovery implementation program shall be developed for the species that are:

- (1) listed as threatened or endangered species under federal law; and
- (2) associated with the aquifer.

(b) The authority shall enter into a memorandum of agreement with the United States Fish and Wildlife Service, other appropriate federal agencies, the Texas Commission on Environmental Quality, the Parks and Wildlife Department, the Department of Agriculture, the Texas Water Development Board, and other stakeholders in order to develop, not later than December 31, 2007, a program document that may be in the form of a habitat conservation plan used in issuance of an incidental take permit as outlined in Subsection (d) of this section.

(c) The authority shall enter into an implementing agreement with the United States Fish and Wildlife Service, other appropriate federal agencies, the Texas Commission on Environmental Quality, the Parks and Wildlife Department, the Department of Agriculture, the Texas Water Development Board, and other stakeholders to develop a program document that may be in the form of a habitat conservation plan used in issuance of an incidental take permit as outlined in Subsection (d) of this section not later than December 31, 2009.

(d) The authority, the Texas Commission on Environmental Quality, the Parks and Wildlife Department, the Department of Agriculture, the Texas Water Development Board, and other stakeholders shall jointly prepare a program document that may be in the form of a habitat conservation plan used in issuance of an incidental take permit with the United States secretary of the interior, through the United States Fish and Wildlife Service and other appropriate federal agencies, under Section 4 or Section 6, Endangered Species Act of 1973 (16 U.S.C. Section 1533 or 1535), as applicable, based on the program developed under Subsection (a) of this section. The program document shall:

(1) provide recommendations for withdrawal adjustments based on a combination of spring discharge rates of the San Marcos and Comal Springs and levels at the J-17 and J-27 wells during critical periods to ensure that federally listed, threatened, and endangered species associated with the Edwards Aquifer will be protected at all times, including throughout a repeat of the drought of record;

(2) include provisions to pursue cooperative and grant funding to the extent available from all state, federal, and other sources for eligible programs included in the cooperative agreement under Subsection (c) of this section, including funding for a program director; and

(3) be approved and executed by the authority, the Commission, the Parks and Wildlife Department, the Department of Agriculture, the Texas Water Development Board and the United States Fish and Wildlife Service not later than September 1, 2012, and the agreement shall take effect December 31, 2012.

(e) Texas A&M University shall assist in the creation of a steering committee to oversee and assist in the development of the cooperative agreement under Subsection (c) of this section. The steering committee must be created not later than September 30, 2007. The initial steering committee shall be composed of:

(1) a representative of each of the following entities, as appointed by the governing body of that entity:

(A) the Edwards Aquifer Authority;

(B) the Texas Commission on Environmental Quality;

(C) the Parks and Wildlife Department;

(D) the Department of Agriculture;

(E) the Texas Water Development Board;

(F) the San Antonio Water System;

(G) the Guadalupe-Blanco River Authority;

(H) the San Antonio River Authority;

(I) the South Central Texas Water Advisory Committee; and

(J) Bexar County;

(K) CPS Energy; and

(L) Bexar Metropolitan Water District or its successor; and

(2) nine other persons who respectively must be:

(A) a representative of a holder of an initial regular permit issued to a retail public utility located west of Bexar County, to be appointed by the authority;

(B) a representative of a holder of an initial regular permit issued by the authority for industrial purposes, to be appointed by the authority;

(C) a representative of a holder of an industrial surface water right in the Guadalupe River Basin, to be appointed by the Texas Commission on Environmental Quality;

(D) a representative of a holder of a municipal surface water right in the Guadalupe River Basin, to be appointed by the Texas Commission on Environmental Quality;

(E) a representative of a retail public utility in whose service area the Comal Springs or San Marcos Springs is located;

(F) a representative of a holder of an initial regular permit issued by the authority for irrigation, to be appointed by the commissioner of agriculture;

(G) a representative of an agricultural producer from the Edwards Aquifer region, to be appointed by the commissioner of agriculture;

(H) a representative of environmental interests from the Texas Living Waters Project, to be appointed by the governing body of that project; and

(I) a representative of recreational interests in the Guadalupe River Basin, to be appointed by the Parks and Wildlife Commission.

(f) The steering committee shall work with Texas A&M University to:

(1) establish a regular meeting schedule and publish that schedule to encourage public participation; and

(2) not later than October 31, 2007, hire a program director to be housed at Texas A&M University.

(g) Texas A&M University may accept outside funding to pay the salary and expenses of the program director hired under this section and any expenses associated with the university's participation in the creation of the steering committee or subcommittees established by the steering committee.

(h) Where reasonably practicable or as required by law, any meeting of the steering committee, the Edwards Aquifer area expert science subcommittee, or another subcommittee established by the steering committee must be open to the public.

(i) The steering committee appointed under this section shall appoint an Edwards Aquifer area expert science subcommittee not later than December 31, 2007. The expert science subcommittee must be composed of an odd number of not fewer than seven or more than 15 members who have technical expertise regarding the Edwards Aquifer system, the threatened and endangered species that inhabit that system, springflows, or the development of withdrawal limitations. The Bureau of Economic Geology of The University of Texas at Austin and the River Systems Institute at Texas State University shall assist the expert science subcommittee. Chapter 2110, Government Code, does not apply to the size, composition, or duration of the expert science subcommittee.

(j) The Edwards Aquifer area expert science subcommittee shall, among other things, analyze species requirements in relation to spring discharge rates and aquifer levels as a function of recharge and withdrawal levels. Based on that analysis and the elements required to be considered by the authority under Section 1.14 of this article, the expert science subcommittee shall, through a collaborative process designed to achieve consensus, develop recommendations for withdrawal reduction levels and stages for critical period management including, if appropriate, establishing separate and possibly different withdrawal reduction levels and stages for critical period management for different pools of the aquifer needed to maintain target spring discharge and aquifer levels. The expert science subcommittee shall submit its recommendations to the steering committee and all other stakeholders involved in the recovery implementation program under this section.

(k) The initial recommendations of the Edwards Aquifer area expert science subcommittee must be completed and submitted to the steering committee and other stakeholders not later than December 31, 2008, and should include an evaluation:

(1) of the option of designating a separate San Marcos pool, of how such a designation would affect existing pools, and of the need for an additional well to measure the San Marcos pool, if designated;

(2) of the necessity to maintain minimum springflows, including a specific review of the necessity to maintain a flow to protect the federally threatened and endangered species; and

(3) as to whether adjustments in the trigger levels for the San Marcos Springs flow for the San Antonio pool should be made.

(l) In developing its recommendations, the Edwards Aquifer area expert science subcommittee shall:

(1) consider all reasonably available science, including any Edwards Aquifer-specific studies, and base its recommendations solely on the best science available; and

(2) operate on a consensus basis to the maximum extent possible.

(m) After development of the cooperative agreement, the steering committee, with the assistance of the Edwards Aquifer area expert science subcommittee and with input from the other recovery implementation program stakeholders, shall prepare and submit recommendations to the authority. The recommendations must:

(1) include a review of the critical period management plan, to occur at least once every five years;

(2) include specific monitoring, studies, and activities that take into account changed conditions and information that more accurately reflects the importance of critical period management; and

(3) establish a schedule for continuing the validation or refinement of the critical period management plan adopted by the authority and the strategies to achieve the program and cooperative agreement described by this section.

(n) In this subsection, "recharge facility" means a dam, reservoir, or other method of recharge project and associated facilities, structures, or works but does not include facilities designed to recirculate water at Comal or San Marcos Springs. The steering committee shall establish a recharge facility feasibility subcommittee to:

(1) assess the need for the authority or any other entity to own, finance, design, construct, operate, or maintain recharge facilities;

(2) formulate plans to allow the authority or any other entity to own, finance, design, construct, operate, or maintain recharge facilities;

(3) make recommendations to the steering committee as to how to calculate the amount of additional water that is made available for use from a recharge project including during times of critical period reductions;

(4) maximize available federal funding for the authority or any other entity to own, finance, design, construct, operate, or maintain recharge facilities; and

(5) evaluate the financing of recharge facilities, including the use of management fees or special fees to be used for purchasing or operating the facilities.

(o) The steering committee may establish other subcommittees as necessary, including a hydrology subcommittee, a community outreach and education subcommittee, and a water supply subcommittee.

(p) On execution of the memorandum of agreement described by Subsection (b) of this section, the steering committee described by Subsection (e) of this section may, by majority vote of its members, vote to add members to the steering committee, change the makeup of the committee, or dissolve the committee. If the steering committee is dissolved, the program director hired under Subsection (f) of this section shall assume the duties of the steering committee.

(q) The authority shall provide an annual report to the governor, lieutenant governor, and speaker of the house of representatives not later than January 1 of each year that details:

(1) the status of the recovery implementation program development process;

(2) the likelihood of completion of the recovery implementation program and the cooperative agreement described by Subsection (c) of this section;

(3) the extent to which the recommendations of the Edwards Aquifer area expert science subcommittee are being considered and implemented by the authority;

(4) any other actions that need to be taken in response to each recommendation;

(5) reasons explaining why any recommendation received has not been implemented; and

(6) any other issues the authority considers of value for the efficient and effective completion of the program and the cooperative agreement under this section.

SECTION _____. Subsections (b), (h), and (i), Section 1.29, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, are amended to read as follows:

(b) The authority shall assess equitable aquifer management fees based on aquifer use under the water management plan to finance its administrative expenses and programs authorized under this article. Each water district governed by Chapter 36 [52], Water Code, that is within the authority's boundaries may contract with the authority to pay expenses of the authority through taxes in lieu of user fees to be paid by water users in the district. The contract must provide that the district will pay an amount equal to the amount that the water users in the district would have paid through user fees. The authority may not collect a total amount of fees and taxes that is more than is reasonably necessary for the administration of the authority.

(h) Fees assessed by the authority may not be used to fund the cost of reducing withdrawals or retiring permits or of judgments or claims related to withdrawals or permit retirements [Special fees collected under Subsection (c) or (d) of this section may not be used to finance a surface water supply reservoir project].

(i) The authority and other stakeholders, including state agencies, listed under Section 1.26A of this article shall provide money as necessary[, but not to exceed five percent of the money collected under Subsection (d) of this section,] to finance the activities of the steering committee and any subcommittees appointed by the steering committee and the program director of the recovery implementation program under Section 1.26A of this article. The authority shall provide, as necessary, up to \$75,000 annually, adjusted for changes in the consumer price index, to finance the South Central Texas Water Advisory Committee's administrative expenses and programs authorized under this article.

SECTION _____. Subsection (a), Section 1.45, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

(a) The authority may own, finance, design, construct, [build or] operate, and maintain recharge dams and associated facilities, structures, or works in the contributing or recharge area of the aquifer if the recharge is made to increase the yield of the aquifer, [and] the recharge project does not impair senior water rights or vested riparian rights, and the recharge project is not designed to recirculate water at Comal or San Marcos Springs.

SECTION _____. Subsections (b) and (d), Section 1.14, Section 1.21, and Subsections (a), (c), and (d), Section 1.29, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, are repealed.

SECTION _____. (a) Before January 1, 2012, a suit may not be instituted in a state court contesting:

- (1) the validity or implementation of this Act; or
- (2) the groundwater withdrawal amounts recognized in Section 3 of this Act.

(b) If applicable, a party that files a suit in any court shall be automatically removed from the steering committee established under Section 1.26A, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, as added by this Act.

(c) A suit against the Edwards Aquifer Authority may not be instituted or maintained by a person who owns, holds, or uses a surface water right and claims injury or potential injury to that right for any reason, including any actions taken by the Edwards Aquifer Authority to implement or enforce Article 1, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, as amended. This section does not apply to suits brought pursuant to Section 1.45, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993.

SECTION _____. The change in law made by this Act applies only to a cause of action filed on or after the effective date of this Act. A cause of action that is filed 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 _____. 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, 2007.

The amendment to **CSHB 3** was read.

Senator Van de Putte offered the following amendment to Floor Amendment No. 8:

Floor Amendment No. 9

Amend Floor Amendment No. 8 to **CSHB 3** by making the following changes to SECTION ___ of the bill and renumbering the subsequent SECTIONS accordingly:

SECTION ___. Subchapter C, Chapter 361, Health and Safety Code, is amended by adding Section 361.125 to read as follows:

Sec. 361.125. PERMIT AND AUTHORIZATION REQUIREMENTS FOR MUNICIPAL SOLID WASTE FACILITY ON RECHARGE OR TRANSITION ZONE OF SOLE SOURCE AQUIFER. (a) In this section:

(1) "Recharge zone" and "transition zone" have the meanings assigned by 30 T.A.C. Section 213.3.

(2) "Sole source aquifer" means an aquifer that is the sole or principal source of drinking water for an area designated under Section 1424(e), Safe Drinking Water Act (42 U.S.C. Section 300h-3(e)).

(b) The commission by rule shall:

(1) impose heightened standards for the issuance of an authorization or permit for a municipal solid waste facility, including a recycling facility, under this chapter if the facility is located on the recharge zone or transition zone of a sole source aquifer;

(2) require a municipal solid waste facility, including a recycling facility, that is located on the recharge zone of a sole source aquifer to install groundwater protection features, such as liners and monitoring wells, specified by the commission; and

(3) require a recycling facility that is located on the recharge zone or transition zone of a sole source aquifer to establish fire lanes between piles of combustible materials.

The amendment to Floor Amendment No. 8 to **CSHB 3** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 9 except as follows:

Absent: Ogden.

Question recurring on the adoption of Floor Amendment No. 8 to **CSHB 3**, the amendment as amended was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 8 as amended except as follows:

Absent: Ogden.

On motion of Senator Averitt and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSHB 3 as amended was passed to third reading by a viva voce vote.

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

Absent: Ogden.

COMMITTEE SUBSTITUTE HOUSE BILL 3 ON THIRD READING

Senator Averitt moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 3** be placed on its third reading and final passage.

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

Absent: Ogden.

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

HOUSE BILL 4065 ON SECOND READING

Senator Watson moved to suspend the regular order of business to take up for consideration **HB 4065** at this time on its second reading:

HB 4065, Relating to the establishment by the Texas Workforce Commission of a pilot program to provide grants for the construction of certain facilities for job training and employment services.

The motion prevailed.

Senator Shapiro asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time and was passed to third reading by a viva voce vote.

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

Nays: Shapiro.

Absent: Ogden.

HOUSE BILL 4065 ON THIRD READING

Senator Watson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 4065** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Shapiro.

Absent: Ogden.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 1. (Same as previous roll call)

HOUSE BILL 3990 ON SECOND READING

On motion of Senator Fraser and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 3990** at this time on its second reading:

HB 3990, Relating to the creation of the Burnet County Water Control and Improvement District No. 1; providing authority to impose a tax and issue bonds.

The bill was read second time and was passed to third reading by a viva voce vote.

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

Absent: Ogden.

HOUSE BILL 3990 ON THIRD READING

Senator Fraser moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3990** be placed on its third reading and final passage.

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

Absent: Ogden.

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

COMMITTEE SUBSTITUTE HOUSE BILL 12 ON SECOND READING

On motion of Senator Estes and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 12** at this time on its second reading:

CSHB 12, Relating to the funding, powers, duties, and responsibilities of the Parks and Wildlife Department and the Texas Historical Commission.

The bill was read second time.

Senator Nichols offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 12** by adding an appropriately numbered SECTIONS to the bill to read as follows, and renumbering subsequent SECTIONS accordingly:

SECTION _____. Section 12.010, Parks and Wildlife Code, is amended to read as follows:

Sec. 12.010. NUISANCE OR NOXIOUS AQUATIC VEGETATION PROGRAM. (a) The department may implement a program to control or eradicate nuisance aquatic vegetation, including hydrilla and giant sylvania, from public water in this state.

(b) To implement the program under this section, the department may use money from unclaimed refunds of the tax on fuel used in motorboats appropriated to the department under Section 162.502(c), Tax Code.

(c) The department may contract with a person not employed by the department or use the services of department personnel for the control or eradication of nuisance or noxious vegetation in the water of this state.

The amendment to **CSHB 12** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent: Ogden.

Senator Seliger offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSHB 12** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION ____. Section 22.023, Parks and Wildlife Code, is amended to read as follows:

Sec. 22.023. DISPOSITION OF INCOME. The department shall use the income derived from leases, royalties, and operation of the park necessary for maintaining, improving, and operating the park. The [One half of the balance of the] unexpended income at the end of the biennium shall be placed in the state treasury to the credit of the [may be used by the department on other] state parks account [and the remaining one half and any other unexpended balance shall be transferred to the general revenue fund at the end of each biennium].

The amendment to **CSHB 12** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2 except as follows:

Absent: Ogden.

Senator Watson offered the following amendment to the bill:

Floor Amendment No. 3

Amend **CSHB 12** by inserting the SECTIONS below and renumbering the following SECTIONS of the bill accordingly:

SECTION __. Chapter 31, Parks and Wildlife Code, is amended by adding Subchapter G to read as follows:

SUBCHAPTER G. PARTY BOATS

Sec. 31.171. DEFINITIONS. In this subchapter:

(1) "Licensed party boat operator" means a person issued a license by the department under this subchapter.

(2) "Party boat" means a vessel:

(A) operated by the owner of the vessel or an employee of the owner;

and

(B) rented or leased by the owner for a group recreational event for more than six passengers.

Sec. 31.172. APPLICABILITY; EXCEPTION. (a) This subchapter applies only to a party boat that operates on the inland waters of this state.

(b) This subchapter does not apply to:

(1) a boat that is less than 30 feet in length;

(2) a sailboat; or

(3) a boat traveling along the waterway of a municipal riverwalk or a canal.

Sec. 31.173. PARTY BOAT OPERATOR AND STAFF. (a) Except as provided by Subsection (c), the party boat owner shall provide staff members, including a licensed party boat operator, who:

(1) operate and staff the party boat for the duration of a rental or lease for a group recreational event as follows:

(A) for a boat with not more than 25 passengers, one staff member who is an operator;

(B) for a boat with at least 26 but not more than 50 passengers, two staff members, including one operator; and

(C) for a boat with more than 50 passengers, three staff members, including one operator; and

(2) have each successfully completed a boater safety course approved under this chapter.

(b) At least one staff member on the boat must be certified to conduct cardiopulmonary resuscitation.

(c) This section does not apply to a party boat rented or leased for an overnight or longer period for which the owner, or the owner's staff, does not intend to remain in constant possession, command, and control of the party boat.

Sec. 31.174. BOAT REQUIREMENTS. A party boat:

(1) may not carry more than the maximum number of passengers the boat may safely accommodate as determined by the department on inspection;

(2) must have a direct and reliable communication connection to the land-based office of the owner and law enforcement and emergency services by cellular telephone or very high frequency radio; and

(3) must pass an annual water safety inspection conducted by the department or a person under contract with the department.

Sec. 31.175. PASSENGER SAFETY INFORMATION; INSURANCE. (a) The owner of a party boat shall provide each passenger with written and verbal safety information and require each passenger to sign a form acknowledging that the passenger reviewed and understands the information.

(b) The verbal and written safety information must disclose that no lifeguard is present on the party boat if there is not at least one staff member on the boat who is certified as a lifeguard by the American Red Cross, the American Lifeguard Association, or another comparable nationally recognized organization.

(c) The owner of a party boat must obtain at least a minimum amount of liability insurance from an insurer licensed to do business in this state. The commission shall set the amount.

Sec. 31.176. PARTY BOAT OPERATOR LICENSE. (a) The commission by rule shall establish, as necessary to protect the public health and safety, the requirements and procedures for the issuance and renewal of a party boat operator license under this subchapter.

(b) Except as provided by Subsection (c), the rules for obtaining a license as a party boat operator must require at a minimum that the applicant:

(1) be at least 21 years of age;

(2) observe for at least four hours a licensed party boat operator operating a party boat on open water;

(3) operate for at least four hours a party boat on open water while being supervised and observed by a licensed party boat operator; and

(4) pass a written examination covering onboard safety procedures and the applicable provisions of this chapter.

(c) An applicant is not required to comply with Subsections (b)(2) and (3) if the applicant has:

(1) at least 25 hours of experience operating a party boat as shown by appropriate documentation; and

(2) no record of boating violations.

Sec. 31.177. FEES. (a) The commission by rule shall establish and collect a reasonable fee for:

(1) the issuance of a party boat operator license under this subchapter; and

(2) the annual water safety inspection of a party boat required by this subchapter.

(b) A fee collected by the department under this subchapter and any interest that accrues on the fee shall be deposited to the credit of the game, fish, and water safety account established under Section 11.032.

Sec. 31.178. DRUG AND ALCOHOL TESTING. If a party boat is involved in an accident causing serious personal injury or death, each staff member on board is subject to mandatory drug and alcohol testing.

Sec. 31.179. ENFORCEMENT. (a) In addition to a game warden, any peace officer of a municipality or other political subdivision of this state who is certified as a marine safety enforcement officer under Section 31.121 may enforce this subchapter:

(1) in the area of a navigable body of water that is in the jurisdiction of the municipality or other political subdivision; or

(2) in any part of a lake that is partly or wholly inside the boundaries of:

(A) the municipality or its extraterritorial jurisdiction; or

(B) the political subdivision.

(b) A party boat is subject to enforcement inspections conducted under Section 31.124.

Sec. 31.180. RULES. The commission shall adopt and enforce rules necessary to implement this subchapter.

SECTION __. Not later than January 1, 2008, the Parks and Wildlife Commission shall adopt rules to implement Subchapter G, Chapter 31, Parks and Wildlife Code, as added by this Act.

SECTION __. Subchapter G, Chapter 31, Parks and Wildlife Code, as added by this Act, applies only to the rental or lease of a party boat on the public water of this state for a group recreational event held on or after June 1, 2008.

The amendment to **CSHB 12** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 3 except as follows:

Absent: Ogden.

Senator Deuell offered the following amendment to the bill:

Floor Amendment No. 4

Amend **CSHB 12** (Senate committee printing) as follows:

(1) Add the following appropriately numbered SECTIONS to the bill and renumber existing SECTIONS accordingly:

SECTION _____. Subsections (b) and (k), Section 442.002, Government Code, are amended to read as follows:

(b) The commission is composed of 17 members appointed by the governor with the advice and consent of the senate. One member must be a professional archeologist, one must be a professional historian, and one must be a licensed architect who has expertise in historic preservation and architectural history. Fourteen members must be representatives of the general public. A person may [is] not be [eligible for appointment as] a public member of the commission if the person or the person's spouse:

(1) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by the commission or receiving money [funds] other than grant money [funds] from the commission; [or]

(2) uses or receives a substantial amount of tangible goods, services, or money [funds] from the commission, other than compensation or reimbursement authorized by law for commission membership, attendance, or expenses; or

(3) is employed by or participates in the management of a business entity or other organization regulated by or receiving money other than grant money from the commission.

(k) The Texas Historical Commission is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission is abolished and this chapter expires September 1, 2019 [2007].

SECTION _____. Section 442.0021, Government Code, is amended to read as follows:

Sec. 442.0021. COMMISSION MEMBERS: TRAINING. (a) A person who is appointed to and qualifies for office as a member of the commission may not vote, deliberate, or be counted as a member in attendance at a meeting of the commission until the person completes a training program that complies with [Before a member of the commission may assume the member's duties and before the member may be confirmed by the senate, the member must complete at least one course of the training program established under] this section.

(b) The [A] training program must [established under this section shall] provide the person with information [to the member] regarding:

- (1) the ~~[enabling]~~ legislation that created the commission;
- (2) the programs, functions, rules, and budget of the commission;
- (3) the results of the most recent formal audit of the commission ~~[(2) the programs operated by the commission];~~
- (4) the requirements of laws relating to open meetings, public information, administrative procedure, and conflicts of interest ~~[(3) the role and functions of the commission];~~ and
- (5) any applicable ethics policies adopted by the commission or the Texas Ethics Commission ~~[(4) the rules of the commission with an emphasis on the rules that relate to disciplinary and investigatory authority;~~
- ~~[(5) the current budget for the commission;~~
- ~~[(6) the results of the most recent formal audit of the commission;~~
- ~~[(7) the requirements of the:~~
- ~~[(A) open meetings law, Chapter 551;~~
- ~~[(B) open records law, Chapter 552; and~~
- ~~[(C) administrative procedure law, Chapter 2001;~~
- ~~[(8) the requirements of the conflict of interest laws and other laws relating to public officials; and~~
- ~~[(9) any applicable ethics policies adopted by the commission or the Texas Ethics Commission].~~

(c) A person appointed to the commission is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

SECTION ____ . Subsections (a) and (b), Section 442.0022, Government Code, are amended to read as follows:

(a) In this section, "Texas trade association" means a cooperative and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest ~~[An officer, employee, or paid consultant of a Texas trade association in the field of archeology or historic preservation may not be a member of the commission or employee of the commission who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule].~~

(b) A person may not be a member of the commission and may not be a commission employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.) if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of archeology or historic preservation; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of archeology or historic preservation ~~[who is the spouse of an officer, manager, or paid consultant of a Texas trade association in the field of~~

~~archeology or historic preservation may not be a member of the commission and may not be an employee of the commission who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule].~~

SECTION _____. Section 442.004, Government Code, is amended by adding Subsection (b-1) to read as follows:

(b-1) The executive director may not serve as a voting director on the board of directors of an affiliated nonprofit organization formed under Section 442.005(p).

SECTION _____. Subchapter A, Chapter 442, Government Code, is amended by adding Section 442.0055 to read as follows:

Sec. 442.0055. AFFILIATED NONPROFIT ORGANIZATION; RULES; GUIDELINES. (a) The commission shall adopt rules governing the relationship between the commission and an affiliated nonprofit organization formed under Section 442.005(p), including rules that, at a minimum:

(1) define the extent to which commission employees with regulatory responsibilities, including the executive director, may participate in activities that raise funds for an affiliated nonprofit organization, which may not include the direct solicitation of funds; and

(2) define the relationship between commission employees and an affiliated nonprofit organization.

(b) The commission shall establish guidelines for identifying and defining the administrative and financial support the commission may provide for an affiliated nonprofit organization formed under Section 442.005(p).

SECTION _____. Section 442.006, Government Code, is amended by amending Subsection (b) and adding Subsection (h) to read as follows:

(b) The commission shall:

(1) develop statewide themes for the program related to the commission's preservation goals for the state;

(2) install markers recognizing districts, sites, individuals, events, structures, and objects significant in Texas or American history, architecture, archeology, or culture;

(3) ~~and shall~~ keep a register of those markers; and

(4) establish a limit for the number of markers the commission awards annually.

(h) The commission by rule shall establish guidelines for an application for, and the commission's review of the application for, a historical marker, monument, or medallion. The guidelines must include criteria for ranking the applications. The commission shall give priority to the markers, monuments, and medallions that relate to the statewide themes developed by the commission.

SECTION _____. Subsections (a), (b), and (c), Section 442.009, Government Code, are amended to read as follows:

(a) The commission shall maintain a system to promptly and efficiently act on complaints filed with the commission. The commission shall maintain information about parties to the complaint, the subject matter of the complaint, a summary of the results of the review or investigation of the complaint, and its disposition ~~prepare~~

~~information of public interest describing the functions of the commission and the procedures by which complaints are filed with and resolved by the commission. The commission shall make the information available to the public and appropriate state agencies].~~

~~(b) The commission [by rule] shall make information available describing its procedures for complaint investigation and resolution [establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of the commission for the purpose of directing complaints to the commission].~~

~~(c) The commission shall periodically notify the complaint parties of the status of the complaint until final disposition [keep information about each complaint filed with the commission. The information shall include:~~

~~[(1) the date the complaint is received;~~

~~[(2) the name of the complainant;~~

~~[(3) the subject matter of the complaint;~~

~~[(4) a record of all persons contacted in relation to the complaint;~~

~~[(5) a summary of the results of the review or investigation of the complaint; and~~

~~[(6) for complaints for which the agency took no action, an explanation of the reason the complaint was closed without action].~~

SECTION _____. Subchapter A, Chapter 442, Government Code, is amended by adding Sections 442.022 and 442.023 to read as follows:

Sec. 442.022. USE OF TECHNOLOGY. The commission shall implement a policy requiring the commission to use appropriate technological solutions to improve the commission's ability to perform its functions. The policy must ensure that the public is able to interact with the commission on the Internet.

Sec. 442.023. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE PROCEDURES. (a) The commission shall develop and implement a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008 for the adoption of commission rules; and

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

(b) The commission's procedures relating to alternative dispute resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) The commission shall designate a trained person to:

(a);

(2) serve as a resource for any training needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and

(3) collect data concerning the effectiveness of those procedures, as implemented by the commission.

SECTION _____. Subsection (c), Section 442.0022, and Subsection (d), Section 442.009, Government Code, are repealed.

SECTION _____. Not later than February 1, 2008, the Texas Historical Commission shall adopt the rules required by Section 442.0055 and Subsection (h), Section 442.006, Government Code, as added by this Act.

SECTION _____. (a) The changes in law made by this Act in the prohibitions or qualifications applying to a member of the Texas Historical Commission do not affect the entitlement of a member serving on the Texas Historical Commission immediately before September 1, 2007, to continue to serve and function as a member of the Texas Historical Commission for the remainder of the member's term. Those changes in law apply only to a member appointed on or after September 1, 2007.

(b) The changes in law made by this Act to Section 442.009, Government Code, relating to the investigation of a complaint filed with the Texas Historical Commission apply only to a complaint filed on or after September 1, 2007. A complaint filed with the commission before September 1, 2007, is governed by the law as it existed immediately before that date, and the former law is continued in effect for that purpose.

The amendment to **CSHB 12** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 4 except as follows:

Absent: Ogden.

Senator Janek offered the following amendment to the bill:

Floor Amendment No. 5

Amend **CSHB 12** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill appropriately:

SECTION ___. Section 442.015, Government Code, is amended by amending Subsections (a), (b), and (f) and adding Subsections (h), (i), (j), (k), and (l) to read as follows:

(a) Notwithstanding Sections 403.094 and 403.095, the Texas preservation trust fund account is a separate account in the general revenue fund. The account consists of transfers made to the account, loan repayments, grants and donations made for the purposes of this program, proceeds of sales, earnings [~~income earned~~] on [~~money in~~] the account, and any other money received under this section. Distributions from [~~Money in~~] the account may be used only for the purposes of this section and may not be used to pay operating expenses of the commission. Money allocated to the commission's historic preservation grant program shall be deposited to the credit of the account. Earnings [~~Income earned~~] on [~~money in~~] the account shall be deposited to the credit of the account.

(b) The commission may use distributions from [~~money in~~] the Texas preservation trust fund account to provide financial assistance to public or private entities for the acquisition, survey, restoration, or preservation, or for planning and educational activities leading to the preservation, of historic property in the state that is listed in the National Register of Historic Places or designated as a State Archeological Landmark or Recorded Texas Historic Landmark, or that the commission determines is eligible for such listing or designation. The financial assistance may be in the amount and form and according to the terms that the

commission by rule determines. The commission shall give priority to property the commission determines to be endangered by demolition, neglect, underuse, looting, vandalism, or other threat to the property. Gifts and grants [Money] deposited to the credit of the account specifically for any eligible projects may be used only for the type of projects specified. If such a specification is not made, the gift or grant [money] shall be unencumbered and accrue to the benefit of the Texas preservation trust fund account. If such a specification is made, the entire amount of the gift or grant may be used during any period for the project or type of project specified.

(f) The advisory board shall recommend to the commission rules for administering Subsections (a)-(e) [this section].

(h) The comptroller shall manage the assets of the account. In managing the assets of the account, the comptroller may acquire, exchange, sell, supervise, manage, or retain, through procedures and subject to restrictions the comptroller considers appropriate, any kind of investment that a prudent investor, exercising reasonable care, skill, and caution, would acquire or retain in light of the purposes, terms, distribution requirements, and other circumstances of the account then prevailing, taking into consideration the investment of all the assets of the account rather than a single investment.

(i) The amount of a distribution shall be determined by the comptroller in a manner intended to provide a stable and predictable stream of annual distributions and to maintain over time the purchasing power of account investments and annual distributions from the account. If the purchasing power of account investments for any 10-year period is not preserved, the comptroller may not increase annual distributions from the account until the purchasing power of account investments is restored.

(j) An annual distribution made by the comptroller from the account during a fiscal year may not exceed an amount equal to seven percent of the average net fair market value of the investment assets of the account as determined by the comptroller.

(k) The expenses of managing account investments shall be paid from the account.

(l) On request, the comptroller shall fully disclose all details concerning the investments of the account.

The amendment to **CSHB 12** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 5 except as follows:

Absent: Ogden.

Senator Duncan, on behalf of Senator Ogden, offered the following amendment to the bill:

Floor Amendment No. 6

Amend **CSHB 12** (Senate committee printing) by adding appropriately numbered SECTIONS to the bill to read as follows and renumbering remaining SECTIONS:

SECTION __. Chapter 614, Government Code, is amended by adding Subchapter H to read as follows:

SUBCHAPTER H. STANDARDS FOR CERTAIN LAW ENFORCEMENT
OFFICERS

Sec. 614.151. DEFINITIONS. In this subchapter:

(1) "Law enforcement agency" means the Department of Public Safety, Texas Alcoholic Beverage Commission, Texas Department of Criminal Justice, and Parks and Wildlife Department.

(2) "Law enforcement officer" means a person who:

(A) is a commissioned peace officer;

(B) is employed by a law enforcement agency; and

(C) is compensated according to Schedule C of the position classification salary schedule prescribed by the General Appropriations Act.

Sec. 614.152. PHYSICAL FITNESS AND APPEARANCE STANDARDS.

(a) Out of appropriated funds, each law enforcement agency shall adopt physical fitness and appearance standards that a law enforcement officer must meet to continue employment with the agency as a law enforcement officer. The standards adopted by a law enforcement agency other than the Department of Public Safety must be at least as stringent as the standards adopted by the Department of Public Safety. Except as provided by Subsection (b), a violation of a standard adopted under this subsection is just cause to discharge an officer or transfer an officer to a position that is not compensated according to Schedule C of the position classification salary schedule prescribed by the General Appropriations Act.

(b) A law enforcement agency may exempt a law enforcement officer from a standard under Subsection (a) based on the facts and circumstances of the individual case, including whether an officer was injured in the line of duty.

SECTION __. Not later than November 1, 2007, the Department of Public Safety of the State of Texas, the Texas Alcoholic Beverage Commission, the Texas Department of Criminal Justice, and the Parks and Wildlife Department shall each adopt the standards required by Section 614.152, Government Code, as added by this Act.

The amendment to **CSHB 12** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 6 except as follows:

Absent: Ogden.

On motion of Senator Estes and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSHB 12 as amended was passed to third reading by a viva voce vote.

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

Absent: Ogden.

**COMMITTEE SUBSTITUTE
HOUSE BILL 12 ON THIRD READING**

Senator Estes moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 12** be placed on its third reading and final passage.

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

Absent: Ogden.

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 3678 ON SECOND READING**

Senator Williams moved to suspend the regular order of business to take up for consideration **CSHB 3678** at this time on its second reading:

CSHB 3678, Relating to voluntary student expression of religious viewpoints in public schools.

The motion prevailed.

Senators Shapleigh, Watson, and Zaffirini asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time and was passed to third reading by a viva voce vote.

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

Nays: Shapleigh, Watson, Zaffirini.

Absent: Ogden.

**COMMITTEE SUBSTITUTE
HOUSE BILL 3678 ON THIRD READING**

Senator Williams moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 3678** be placed on its third reading and final passage.

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

Yeas: Averitt, Brimer, Carona, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hegar, Hinojosa, Jackson, Janek, Lucio, Nelson, Nichols, Patrick, Seliger, Shapiro, Uresti, Van de Putte, Wentworth, West, Whitmire, Williams.

Nays: Shapleigh, Watson, Zaffirini.

Absent: Ogden.

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 3309 ON SECOND READING**

Senator Hinojosa moved to suspend the regular order of business to take up for consideration **CSHB 3309** at this time on its second reading:

CSHB 3309, Relating to the ability of certain advocacy and support groups to provide services for children confined in Texas Youth Commission facilities.

The motion prevailed.

Senator Watson asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time and was passed to third reading by a viva voce vote.

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

Nays: Watson.

Absent: Ogden.

**COMMITTEE SUBSTITUTE
HOUSE BILL 3309 ON THIRD READING**

Senator Hinojosa moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 3309** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Watson.

Absent: Ogden.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 1. (Same as previous roll call)

**COMMITTEE SUBSTITUTE
HOUSE BILL 1742 ON SECOND READING**

On motion of Senator West and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 1742** at this time on its second reading:

CSHB 1742, Relating to urban land bank demonstration programs.

The bill was read second time.

Senator West offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 1742** (committee printing) as follows:

Add the following SECTIONS and renumber subsequent SECTIONS accordingly:

SECTION ____ §373A.003 Local Government Code. APPLICABILITY OF CHAPTER. (a) This chapter applies ~~only~~ to a municipality with a population of more than 650,000 that is located in a uniform state service region with fewer than 550,000 occupied housing units as determined by the most recent United States decennial census.

(b) Subchapters A, B, C and D apply to any municipality with a population of 1.18 million or more which is located predominantly in a county that has a total area of less than 1,000 square miles and has adopted an urban land bank demonstration program under Chapter 379C, Local Government Code.

SECTION ____ §373A.052. ELIGIBILITY FOR DESIGNATION. (a) To be designated as a district within a municipality described by §373.003(a) under this subchapter, an area must be composed of census tracts forming a spatially compact area contiguous to a central business district and with:

- (1) fewer than 25,000 residents;
- (2) fewer than 8,000 households;
- (3) a number of owner-occupied households that does not exceed 50 percent of the total households in the area;
- (4) housing stock at least 55 percent of which was built at least 45 years ago;
- (5) an unemployment rate that is greater than 10 percent;
- (6) an overall poverty rate that is at least two times the poverty rate for the entire municipality; and
- (7) in each census tract within the area, a median family income that is less than 60 percent of the median family income for the entire municipality.

(b) To be designated as a district within a municipality described by §373.003(b) under this subchapter, an area must be composed of census tracts forming a spatially compact area contiguous to a central business district and with:

- (1) fewer than 75,000 residents
- (2) a median family income that is less than \$30,000 according to the last decennial census,
- (3) an overall poverty rate that is at least two times the poverty rate for the entire municipality.

(c) An area that is designated as a district under this subchapter may retain its designation as a district regardless of whether the area continues to meet the eligibility criteria provided by this section, except that an area that does not elect to retain its designation as permitted by this subsection must meet all eligibility criteria to be considered for subsequent redesignation as a district.

SECTION ____ It is the intent of the legislature that the passage by the 80th Legislature, Regular Session, 2007, of another bill that amends Chapter 373A, Local Government Code, and the amendments made by this Act shall be harmonized, if possible, as provided by Section 311.025(b), Government Code, so that effect may be given to each. If the amendments made by this Act to Chapter 373A, Local Government Code, and the amendments made to Chapter 373A, Local Government Code, by any other bill are irreconcilable, it is the intent of the legislature that this Act prevail, regardless of the relative dates of enactment of this Act and the other bill or bills, but only to the extent that any differences are irreconcilable.

The amendment to **CSHB 1742** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent: Ogden.

Senator Lucio offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSHB 1742** (committee printing) by adding the following appropriately numbered SECTIONS to read as follows and renumbering subsequent SECTIONS appropriately:

SECTION ____. Subtitle A, Title 12, Local Government Code, is amended by adding Chapter 379E to read as follows:

CHAPTER 379E. URBAN LAND BANK PROGRAM

Sec. 379E.001. SHORT TITLE. This chapter may be cited as the Urban Land Bank Program Act.

Sec. 379E.002. APPLICABILITY; CONSTRUCTION WITH OTHER LAW. This chapter applies only to a municipality:

(1) to which Chapter 379C or 379D does not apply; and

(2) that has not ever adopted a homestead land bank program under

Subchapter E, Chapter 373A.

Sec. 379E.003. DEFINITIONS. In this chapter:

(1) "Affordable" means that the monthly mortgage payment or contract rent does not exceed 30 percent of the applicable median family income for that unit size, in accordance with the income and rent limit rules adopted by the Texas Department of Housing and Community Affairs.

(2) "Community housing development organization" or "organization" means an organization that:

(A) meets the definition of a community housing development organization in 24 C.F.R. Section 92.2; and

(B) is certified by the municipality as a community housing development organization.

(3) "Land bank" means an entity established or approved by the governing body of a municipality for the purpose of acquiring, holding, and transferring unimproved real property under this chapter.

(4) "Low income household" means a household with a gross income of not greater than 80 percent of the area median family income, adjusted for household size, for the metropolitan statistical area in which the municipality is located, as determined annually by the United States Department of Housing and Urban Development.

(5) "Qualified participating developer" means a developer who meets the requirements of Section 379E.005 and includes a qualified organization under Section 379E.011.

(6) "Urban land bank plan" or "plan" means a plan adopted by the governing body of a municipality as provided by Section 379E.006.

(7) "Urban land bank program" or "program" means a program adopted under Section 379E.004.

Sec. 379E.004. URBAN LAND BANK PROGRAM. (a) The governing body of a municipality may adopt an urban land bank program in which the officer charged with selling real property ordered sold pursuant to foreclosure of a tax lien may sell certain eligible real property by private sale for purposes of affordable housing development as provided by this chapter.

(b) The governing body of a municipality that adopts an urban land bank program shall establish or approve a land bank for the purpose of acquiring, holding, and transferring unimproved real property under this chapter.

Sec. 379E.005. QUALIFIED PARTICIPATING DEVELOPER. To qualify to participate in an urban land bank program, a developer must:

(1) have developed three or more housing units within the three-year period preceding the submission of a proposal to the land bank seeking to acquire real property from the land bank;

(2) have a development plan approved by the municipality for the land bank property; and

(3) meet any other requirements adopted by the municipality in the urban land bank plan.

Sec. 379E.006. URBAN LAND BANK PLAN. (a) A municipality that adopts an urban land bank program shall operate the program in conformance with an urban land bank plan.

(b) The governing body of a municipality that adopts an urban land bank program shall adopt a plan annually. The plan may be amended from time to time.

(c) In developing the plan, the municipality shall consider other housing plans adopted by the municipality, including the comprehensive plan submitted to the United States Department of Housing and Urban Development and all fair housing plans and policies adopted or agreed to by the municipality.

(d) The plan must include the following:

(1) a list of community housing development organizations eligible to participate in the right of first refusal provided by Section 379E.011;

(2) a list of the parcels of real property that may become eligible for sale to the land bank during the next year;

(3) the municipality's plan for affordable housing development on those parcels of real property; and

(4) the sources and amounts of money anticipated to be available from the municipality for subsidies for development of affordable housing in the municipality, including any money specifically available for housing developed under the program, as approved by the governing body of the municipality at the time the plan is adopted.

Sec. 379E.007. PUBLIC HEARING ON PROPOSED PLAN. (a) Before adopting a plan, a municipality shall hold a public hearing on the proposed plan.

(b) The city manager or the city manager's designee shall provide notice of the hearing to all community housing development organizations and to neighborhood associations identified by the municipality as serving the neighborhoods in which properties anticipated to be available for sale to the land bank under this chapter are located.

(c) The city manager or the city manager's designee shall make copies of the proposed plan available to the public not later than the 60th day before the date of the public hearing.

Sec. 379E.008. PRIVATE SALE TO LAND BANK. (a) Notwithstanding any other law and except as provided by Subsection (f), property that is ordered sold pursuant to foreclosure of a tax lien may be sold in a private sale to a land bank by the officer charged with the sale of the property without first offering the property for sale as otherwise provided by Section 34.01, Tax Code, if:

(1) the market value of the property as specified in the judgment of foreclosure is less than the total amount due under the judgment, including all taxes, penalties, and interest, plus the value of nontax liens held by a taxing unit and awarded by the judgment, court costs, and the cost of the sale;

(2) the property is not improved with a building or buildings;

(3) there are delinquent taxes on the property for a total of at least five years; and

(4) the municipality has executed with the other taxing units that are parties to the tax suit an interlocal agreement that enables those units to agree to participate in the program while retaining the right to withhold consent to the sale of specific properties to the land bank.

(b) A sale of property for use in connection with the program is a sale for a public purpose.

(c) If the person being sued in a suit for foreclosure of a tax lien does not contest the market value of the property in the suit, the person waives the right to challenge the amount of the market value determined by the court for purposes of the sale of the property under Section 33.50, Tax Code.

(d) For any sale of property under this chapter, each person who was a defendant to the judgment, or that person's attorney, shall be given, not later than the 90th day before the date of sale, written notice of the proposed method of sale of the property by the officer charged with the sale of the property. Notice must be given in the manner prescribed by Rule 21a, Texas Rules of Civil Procedure.

(e) After receipt of the notice required by Subsection (d) and before the date of the proposed sale, the owner of the property subject to sale may file with the officer charged with the sale a written request that the property not be sold in the manner provided by this chapter.

(f) If the officer charged with the sale receives a written request as provided by Subsection (e), the officer shall sell the property as otherwise provided in Section 34.01, Tax Code.

(g) The owner of the property subject to sale may not receive any proceeds of a sale under this chapter. However, the owner does not have any personal liability for a deficiency of the judgment as a result of a sale under this chapter.

(h) Notwithstanding any other law, if consent is given by the taxing units that are a party to the judgment, property may be sold to the land bank for less than the market value of the property as specified in the judgment or less than the total of all taxes, penalties, and interest, plus the value of nontax liens held by a taxing unit and awarded by the judgment, court costs, and the cost of the sale.

(i) The deed of conveyance of the property sold to a land bank under this section conveys to the land bank the right, title, and interest acquired or held by each taxing unit that was a party to the judgment, subject to the right of redemption.

Sec. 379E.009. SUBSEQUENT RESALE BY LAND BANK. (a) Each subsequent resale of property acquired by a land bank under this chapter must comply with the conditions of this section.

(b) Within the three-year period following the date of acquisition, the land bank must sell a property to a qualified participating developer for the purpose of construction of affordable housing for sale or rent to low income households. If after three years a qualified participating developer has not purchased the property, the property shall be transferred from the land bank to the taxing units who were parties to the judgment for disposition as otherwise allowed under the law.

(c) Unless the municipality increases the amount in its plan, the number of properties acquired by a qualified participating developer under this section on which development has not been completed may not at any time exceed three times the annual average residential production completed by the qualified participating developer during the preceding two-year period as determined by the municipality.

(d) The deed conveying a property sold by the land bank must include a right of reverter so that, if the qualified participating developer does not apply for a construction permit and close on any construction financing within the two-year period following the date of the conveyance of the property from the land bank to the qualified participating developer, the property will revert to the land bank for subsequent resale to another qualified participating developer or conveyance to the taxing units who were parties to the judgment for disposition as otherwise allowed under the law.

Sec. 379E.010. RESTRICTIONS ON OCCUPANCY AND USE OF PROPERTY. (a) The land bank shall impose deed restrictions on property sold to qualified participating developers requiring the development and sale or rental of the property to low income households.

(b) At least 25 percent of the land bank properties sold during any given fiscal year to be developed for sale shall be deed restricted for sale to households with gross household incomes not greater than 60 percent of the area median family income, adjusted for household size, for the metropolitan statistical area in which the municipality is located, as determined annually by the United States Department of Housing and Urban Development.

(c) If property is developed for rental housing, the deed restrictions must be for a period of not less than 20 years and must require that:

(1) 100 percent of the rental units be occupied by and affordable to households with incomes not greater than 60 percent of area median family income, based on gross household income, adjusted for household size, for the metropolitan statistical area in which the municipality is located, as determined annually by the United States Department of Housing and Urban Development;

(2) 40 percent of the units be occupied by and affordable to households with incomes not greater than 50 percent of area median family income, based on gross household income, adjusted for household size, for the metropolitan statistical area in which the municipality is located, as determined annually by the United States Department of Housing and Urban Development; or

(3) 20 percent of the units be occupied by and affordable to households with incomes not greater than 30 percent of area median family income, based on gross household income, adjusted for household size, for the metropolitan statistical area in which the municipality is located, as determined annually by the United States Department of Housing and Urban Development.

(d) The deed restrictions under Subsection (c) must require the owner to file an annual occupancy report with the municipality on a reporting form provided by the municipality. The deed restrictions must also prohibit any exclusion of an individual or family from admission to the development based solely on the participation of the individual or family in the housing choice voucher program under Section 8, United States Housing Act of 1937 (42 U.S.C. Section 1437f), as amended.

(e) Except as otherwise provided by this section, if the deed restrictions imposed under this section are for a term of years, the deed restrictions shall renew automatically.

(f) The land bank or the governing body of the municipality may modify or add to the deed restrictions imposed under this section. Any modifications or additions made by the governing body of the municipality must be adopted by the municipality as part of its plan and must comply with the restrictions set forth in Subsections (b), (c), and (d).

Sec. 379E.011. RIGHT OF FIRST REFUSAL. (a) In this section, "qualified organization" means a community housing development organization that:

(1) contains within its designated geographical boundaries of operation, as set forth in its application for certification filed with and approved by the municipality, a portion of the property that the land bank is offering for sale;

(2) has built at least three single-family homes or duplexes or one multifamily residential dwelling of four or more units in compliance with all applicable building codes within the preceding two-year period and within the organization's designated geographical boundaries of operation; and

(3) within the preceding three-year period has developed or rehabilitated housing units within a two-mile radius of the property that the land bank is offering for sale.

(b) The land bank shall first offer a property for sale to qualified organizations.

(c) Notice must be provided to the qualified organizations by certified mail, return receipt requested, not later than the 60th day before the beginning of the period in which a right of first refusal may be exercised.

(d) The municipality shall specify in its plan the period during which the right of first refusal provided by this section may be exercised by a qualified organization. That period must be at least nine months but not more than 26 months from the date of the deed of conveyance of the property to the land bank.

(e) If the land bank conveys the property to a qualified organization before the expiration of the period specified by the municipality under Subsection (d), the interlocal agreement executed under Section 379E.008(a)(4) must provide tax abatement for the property until the expiration of that period.

(f) During the specified period, the land bank may not sell the property to a qualified participating developer other than a qualified organization. If all qualified organizations notify the land bank that they are declining to exercise their right of first refusal during the specified period, or if an offer to purchase the property is not received from a qualified organization during that period, the land bank may sell the property to any other qualified participating developer at the same price that the land bank offered the property to the qualified organizations.

(g) In its plan, the municipality shall establish the amount of additional time, if any, that a property may be held in the land bank once an offer has been received and accepted from a qualified organization or other qualified participating developer.

(h) If more than one qualified organization expresses an interest in exercising its right of first refusal, the organization that has designated the most geographically compact area encompassing a portion of the property shall be given priority.

(i) In its plan, the municipality may provide for other rights of first refusal for any other nonprofit corporation exempted from federal income tax under Section 501(c)(3), Internal Revenue Code of 1986, as amended, provided that the preeminent right of first refusal is provided to qualified organizations as provided by this section.

(j) The land bank is not required to provide a right of first refusal to qualified organizations under this section if the land bank is selling property that reverted to the land bank under Section 379E.009(d).

Sec. 379E.012. OPEN RECORDS AND MEETINGS. The land bank shall comply with the requirements of Chapters 551 and 552, Government Code.

Sec. 379E.013. RECORDS; AUDIT; REPORT. (a) The land bank shall keep accurate minutes of its meetings and shall keep accurate records and books of account that conform with generally accepted principles of accounting and that clearly reflect the income and expenses of the land bank and all transactions in relation to its property.

(b) The land bank shall file with the municipality not later than the 90th day after the close of the fiscal year annual audited financial statements prepared by a certified public accountant. The financial transactions of the land bank are subject to audit by the municipality.

(c) For purposes of evaluating the effectiveness of the program, the land bank shall submit an annual performance report to the municipality not later than November 1 of each year in which the land bank acquires or sells property under this chapter. The performance report must include:

(1) a complete and detailed written accounting of all money and properties received and disbursed by the land bank during the preceding fiscal year;

(2) for each property acquired by the land bank during the preceding fiscal year:

(A) the street address of the property;

(B) the legal description of the property;

(C) the date the land bank took title to the property;

(D) the name and address of the property owner of record at the time of the foreclosure;

(E) the amount of taxes and other costs owed at the time of the foreclosure; and

(F) the assessed value of the property on the tax roll at the time of the foreclosure;

(3) for each property sold by the land bank during the preceding fiscal year to a qualified participating developer:

(A) the street address of the property;

(B) the legal description of the property;

(C) the name and mailing address of the developer;

(D) the purchase price paid by the developer;

(E) the maximum incomes allowed for the households by the terms of the sale; and

(F) the source and amount of any public subsidy provided by the municipality to facilitate the sale or rental of the property to a household within the targeted income levels;

(4) for each property sold by a qualified participating developer during the preceding fiscal year, the buyer's household income and a description of all use and sale restrictions; and

(5) for each property developed for rental housing with an active deed restriction, a copy of the most recent annual report filed by the owner with the land bank.

(d) The land bank shall maintain in its records for inspection a copy of the sale settlement statement for each property sold by a qualified participating developer and a copy of the first page of the mortgage note with the interest rate and indicating the volume and page number of the instrument as filed with the county clerk.

(e) The land bank shall provide copies of the performance report to the taxing units who were parties to the judgment of foreclosure and shall provide notice of the availability of the performance report for review to the organizations and neighborhood associations identified by the municipality as serving the neighborhoods in which properties sold to the land bank under this chapter are located.

(f) The land bank and the municipality shall maintain copies of the performance report available for public review.

SECTION ____ . Section 11.18, Tax Code, is amended by amending Subsection (d) and adding Subsection (o) to read as follows:

(d) A charitable organization must be organized exclusively to perform religious, charitable, scientific, literary, or educational purposes and, except as permitted by Subsections (h) and (l), engage exclusively in performing one or more of the following charitable functions:

(1) providing medical care without regard to the beneficiaries' ability to pay, which in the case of a nonprofit hospital or hospital system means providing charity care and community benefits in accordance with Section 11.1801;

(2) providing support or relief to orphans, delinquent, dependent, or handicapped children in need of residential care, abused or battered spouses or children in need of temporary shelter, the impoverished, or victims of natural disaster without regard to the beneficiaries' ability to pay;

(3) providing support to elderly persons, including the provision of recreational or social activities and facilities designed to address the special needs of elderly persons, or to the handicapped, without regard to the beneficiaries' ability to pay;

(4) preserving a historical landmark or site;

(5) promoting or operating a museum, zoo, library, theater of the dramatic or performing arts, or symphony orchestra or choir;

(6) promoting or providing humane treatment of animals;

(7) acquiring, storing, transporting, selling, or distributing water for public use;

(8) answering fire alarms and extinguishing fires with no compensation or only nominal compensation to the members of the organization;

(9) promoting the athletic development of boys or girls under the age of 18 years;

(10) preserving or conserving wildlife;

(11) promoting educational development through loans or scholarships to students;

(12) providing halfway house services pursuant to a certification as a halfway house by the pardons and paroles division of the Texas Department of Criminal Justice;

(13) providing permanent housing and related social, health care, and educational facilities for persons who are 62 years of age or older without regard to the residents' ability to pay;

(14) promoting or operating an art gallery, museum, or collection, in a permanent location or on tour, that is open to the public;

(15) providing for the organized solicitation and collection for distributions through gifts, grants, and agreements to nonprofit charitable, education, religious, and youth organizations that provide direct human, health, and welfare services;

(16) performing biomedical or scientific research or biomedical or scientific education for the benefit of the public;

(17) operating a television station that produces or broadcasts educational, cultural, or other public interest programming and that receives grants from the Corporation for Public Broadcasting under 47 U.S.C. Section 396, as amended;

(18) providing housing for low-income and moderate-income families, for unmarried individuals 62 years of age or older, for handicapped individuals, and for families displaced by urban renewal, through the use of trust assets that are irrevocably and, pursuant to a contract entered into before December 31, 1972, contractually dedicated on the sale or disposition of the housing to a charitable organization that performs charitable functions described by Subdivision (9);

(19) providing housing and related services to persons who are 62 years of age or older in a retirement community, if the retirement community provides independent living services, assisted living services, and nursing services to its residents on a single campus:

(A) without regard to the residents' ability to pay; or

(B) in which at least four percent of the retirement community's combined net resident revenue is provided in charitable care to its residents; ~~or~~

(20) providing housing on a cooperative basis to students of an institution of higher education if:

(A) the organization is exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, as amended, by being listed as an exempt entity under Section 501(c)(3) of that code;

(B) membership in the organization is open to all students enrolled in the institution and is not limited to those chosen by current members of the organization;

(C) the organization is governed by its members; and

(D) the members of the organization share the responsibility for managing the housing; or

(21) acquiring, holding, and transferring unimproved real property under an urban land bank program established under Chapter 379E, Local Government Code, as or on behalf of a land bank.

(o) For purposes of Subsection (a)(2), real property acquired, held, and transferred by an organization that performs the function described by Subsection (d)(21) is considered to be used exclusively by the qualified charitable organization to perform that function.

SECTION ____. Section 11.18, Tax Code, as amended by this Act, applies only to an ad valorem tax year that begins on or after the effective date of this Act.

The amendment to **CSHB 1742** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2 except as follows:

Absent: Ogden.

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 3

Amend **CSHB 1742** by adding the following Sections to read as follows and renumbering the subsequent Sections appropriately:

SECTION ____. Subsection (a), Section 379D.010, Local Government Code, is amended to read as follows:

(a) The land bank shall impose deed restrictions with appropriate terms and conditions on property sold to qualified participating developers and eligible adjacent property owners that require:

(1) the development and sale or rental of the property to low income households, if the property is sold to a qualified participating developer; or

(2) the use of the property to be consistent and compatible with the residential character of the neighborhood and any applicable standards for use adopted by the land bank, if the property is sold to an eligible adjacent property owner.

SECTION _____. Section 379D.011, Local Government Code, is amended to read as follows:

Sec. 379D.011. RIGHT OF FIRST REFUSAL IN ELIGIBLE ADJACENT PROPERTY OWNERS; CONDITIONS OF PURCHASE. (a) Property acquired by the land bank shall be offered for sale, at fair market value as determined by the appraisal district in which the property is located, to eligible adjacent property owners under a right of first refusal on terms and conditions developed by the land bank that are consistent with this chapter.

(b) To be eligible to exercise a right of first refusal under this section, an owner of property adjacent to property acquired by the land bank:

(1) must have owned and continuously occupied that property for at least the five preceding years as that person's principal residence; and

(2) must meet any eligibility requirements adopted by the land bank.

(c) An adjacent property owner who purchases property under this section may not lease, sell, or otherwise transfer the property to another party before the 10th anniversary of the date the adjacent property owner purchases the property. This prohibition does not apply to a transfer of property, as allowed by policies adopted by the land bank:

(1) to a family member of the adjacent property owner; or

(2) in the case of the death of the adjacent property owner.

SECTION _____. Chapter 379D, Local Government Code, is amended by adding Section 379D.015 to read as follows:

Sec. 379D.015. EFFECT OF SALE TO LAND BANK OR SUBSEQUENT PURCHASERS OR LENDERS FOR VALUE; LIMITATION ON CERTAIN CAUSES OF ACTION. After the first anniversary of a sale of property to a land bank under this chapter:

(1) a third party, other than a qualified participating developer or eligible adjacent property owner who purchased the property from the land bank under this chapter or a person with a cause of action based on a right, title, interest, or other claim described by Subdivision (2)(A)(ii), may not bring a cause of action to set aside or otherwise challenge the sale of the property to the land bank, including a cause of action that is brought against:

(A) a qualified participating developer or eligible adjacent property owner who purchases property from the land bank under Section 379D.009 or 379D.011, as applicable; or

(B) any other subsequent purchaser for value or lender for value; and

(2) a qualified participating developer or eligible adjacent property owner who purchases property from a land bank under this chapter or any other subsequent purchaser for value or, if applicable, a lender for a developer, owner, or purchaser described by this subdivision or any other subsequent lender for value:

(A) has, with the following characteristics, a full title to the property:

(i) except as provided by Subparagraph (ii), the title is not subject to any right, title, interest, or other claim a person acquired in the property before or after the sale of the property to the land bank, including a right of first refusal, right of second refusal, and any other right, title, interest, or other claim provided by this chapter, other than the right of reverter provided by Section 379D.009(d); and

(ii) the title is subject only to:

(a) the recorded restrictive covenants, liens, and valid easements of record described by Section 34.01(n), Tax Code;

(b) any rights of redemption applicable to the property;

(c) any cause of action to impeach the property deed based on a claim of fraud;

(d) the right of reverter provided by Section 379D.009(d) and the recorded deed restrictions described by Section 379D.010; and

(e) any right, title, interest, or other claim with respect to the property that arose after the sale of the property to the land bank under a law other than this chapter; and

(B) may conclusively presume that:

(i) the sale of the property to the land bank under this chapter was valid; and

(ii) a mortgage on or a subsequent sale of the property complies with this chapter and is subject only to a right, title, interest, or other claim provided by Paragraph (A)(ii).

SECTION _____. Section 379D.015, Local Government Code, as added by this Act, applies only to a cause of action that accrues on or after the effective date of this Act and concerns property that is first purchased by a land bank under Section 379D.015, Local Government Code, on or after the effective date of this Act.

The amendment to **CSHB 1742** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 3 except as follows:

Absent: Ogden.

On motion of Senator West and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSHB 1742 as amended was passed to third reading by a viva voce vote.

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

Absent: Ogden.

COMMITTEE SUBSTITUTE HOUSE BILL 1742 ON THIRD READING

Senator West moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1742** be placed on its third reading and final passage.

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

Absent: Ogden.

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

HOUSE BILL 2702 ON SECOND READING

On motion of Senator Shapiro and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2702** at this time on its second reading:

HB 2702, Relating to the exemption from tuition and fees at a public institution of higher education for adopted students.

The bill was read second time.

Senator Patrick offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 2702** (Senate committee printing) as follows:

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

SECTION __. (a) Section 162.304, Family Code, is amended by adding Subsections (b-1), (b-2), and (g) to read as follows:

(b-1) The department shall pay a \$150 subsidy each month for the premiums for health benefits coverage for a child with respect to whom a court has entered a final order of adoption if the child:

(1) was in the conservatorship of the department at the time of the child's adoptive placement;

(2) after the adoption, is not eligible for medical assistance under Chapter 32, Human Resources Code; and

(3) is younger than 18 years of age.

(b-2) The executive commissioner of the Health and Human Services Commission shall adopt rules necessary to implement Subsection (b-1), including rules that:

(1) limit eligibility for the subsidy under that subsection to a child whose adoptive family income is less than 300 percent of the federal poverty level;

(2) provide for the manner in which the department shall pay the subsidy under that subsection; and

(3) specify any documentation required to be provided by an adoptive parent as proof that the subsidy is used to obtain and maintain health benefits coverage for the adopted child.

(g) A child for whom a subsidy is provided under Subsection (b-1) for premiums for health benefits coverage and who does not receive any other subsidy under this section is not considered to be the subject of an adoption assistance agreement for any other purpose, including for determining eligibility for the exemption from payment of tuition and fees for higher education under Section 54.2111, Education Code.

(b) The change in law made by this section to Section 162.304, Family Code, applies only to financial and medical assistance available under Section 162.304, Family Code, as amended by this section, for a child for whom a final order of adoption is entered on or after the effective date of this section. Financial and medical

assistance for a child for whom a final order of adoption is entered before the effective date of this section is governed by the law in effect on the date the order was entered, and the former law is continued in effect for that purpose.

(c) This section takes effect September 1, 2007.

(2) In SECTION 3 of the bill (page 1, line 47), strike "This Act" and substitute "Except as otherwise provided by this Act, this Act".

The amendment to **HB 2702** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent: Ogden.

On motion of Senator Shapiro and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 2702 as amended was passed to third reading by a viva voce vote.

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

Absent: Ogden.

HOUSE BILL 2702 ON THIRD READING

Senator Shapiro moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2702** be placed on its third reading and final passage.

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

Absent: Ogden.

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

COMMITTEE SUBSTITUTE HOUSE BILL 160 ON SECOND READING

Senator Wentworth moved to suspend the regular order of business to take up for consideration **CSHB 160** at this time on its second reading:

CSHB 160, Relating to rail relocation and improvement in the state.

The motion prevailed.

Senator Shapiro asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time.

Senator Averitt offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 160** as follows:

(1) In SECTION 2 of the bill, added Subdivision (4), Section 386.109, Health and Safety Code (on page 1), strike lines 40 through 47 and substitute "improvement at a rail intersection that is located in a nonattainment or near nonattainment area".

(2) Strike SECTIONS 3 and 4 of the bill (page 1, line 48 through page 3, line 5) and renumber subsequent SECTIONS accordingly.

The amendment to **CSHB 160** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent: Ogden.

On motion of Senator Wentworth and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSHB 160 as amended was passed to third reading by a viva voce vote.

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

Nays: Shapiro.

Absent: Ogden.

COMMITTEE SUBSTITUTE HOUSE BILL 160 ON THIRD READING

Senator Wentworth moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 160** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Shapiro.

Absent: Ogden.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 1. (Same as previous roll call)

COMMITTEE SUBSTITUTE HOUSE BILL 3554 ON SECOND READING

On motion of Senator Duncan and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 3554** at this time on its second reading:

CSHB 3554, Relating to the program for the regulation and remediation of underground and aboveground storage tanks.

The bill was read second time.

(Senator Carona in Chair)

Senator Duncan offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 3554** by striking all below the enacting clause and substituting:

SECTION 1. Section 26.351, Water Code, is amended by amending Subsections (a) and (f) and adding Subsection (i) to read as follows:

(a) The commission shall use risk-based corrective action ~~[adopt rules establishing the requirements]~~ for taking corrective action in response to a release from an underground or aboveground storage tank. Corrective action may include:

- (1) site cleanup, including the removal, treatment, and disposal of surface and subsurface contamination;
- (2) removal of underground or aboveground storage tanks;
- (3) measures to halt a release in progress or to prevent future or threatened releases of regulated substances;
- (4) well monitoring, taking of soil borings, and any other actions reasonably necessary to determine the extent of contamination caused by a release;
- (5) providing alternate water supplies; and
- (6) any other action reasonably necessary to protect the public health and safety or the environment from harm or threatened harm due to releases of regulated substances from underground or aboveground storage tanks.

(f) The person performing corrective action under this section, if the release was reported to the commission on or before December 22, 1998, shall meet the following deadlines:

(1) a complete site assessment and risk assessment (including, but not limited to, risk-based criteria for establishing target concentrations), as determined by the executive director, must be received by the agency no later than September 1, 2002;

(2) a complete corrective action plan, as determined by the executive director and including, but not limited to, completion of pilot studies and recommendation of a cost-effective and technically appropriate remediation methodology, must be received by the agency no later than September 1, 2003. The person may, in lieu of this requirement, submit by this same deadline a demonstration that a corrective action plan is not required for the site in question under commission rules. Such demonstration must be to the executive director's satisfaction;

(3) for those sites found under Subdivision (2) to require a corrective action plan, that plan must be initiated and proceeding according to the requirements and deadlines in the approved plan no later than March 1, 2004;

(4) for sites which require either a corrective action plan or groundwater monitoring, a comprehensive and accurate annual status report concerning those activities must be submitted to the agency;

(5) for sites which require either a corrective action plan or groundwater monitoring, all deadlines set by the executive director concerning the corrective action plan or approved groundwater monitoring plan shall be met; and

(6) for sites that require either a corrective action plan or groundwater monitoring, have met all other deadlines under this subsection, and have submitted annual progress reports that demonstrate progress toward meeting closure requirements, a site closure request must be submitted to the executive director no later than September 1, 2011 ~~[2007]~~. The request must be complete, as judged by the executive director.

(i) The commission shall by rule define "risk-based corrective action" for purposes of this section.

SECTION 2. Sections 26.3573(d), (e), (r-1), and (s), Water Code, are amended to read as follows:

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

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

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

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

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

(e) To consolidate appropriations, the commission may transfer from the petroleum storage tank remediation account to the waste management account an amount equal to the amounts authorized under Subsections ~~Subsection~~ (d)(1) and (4), subject to the requirements of those subsections ~~that subsection~~.

(r-1) In this subsection, "state-lead program" means the petroleum storage tank state-lead program administered by the commission. The executive director shall grant an extension for corrective action reimbursement to a person who is an eligible owner or operator under Section 26.3571. The petroleum storage tank remediation account may be used to reimburse an eligible owner or operator for corrective action performed under an extension before August 31, 2011 ~~2007~~. Not later than July 1, 2011 ~~2007~~, an eligible owner or operator who is granted an extension under this subsection may apply to the commission in writing using a form provided by the commission to have the site subject to corrective action placed in the state-lead program. The eligible owner or operator must agree in the application to allow site access to state personnel and state contractors as a condition of placement in the state-lead program under this subsection. On receiving the application for placement in the state-lead program under this subsection, the executive director by order shall place the site in the state-lead program until the corrective action is completed to the satisfaction of the commission. An eligible owner or operator of a site that is placed in the state-lead program under this subsection is not liable to the commission for any costs related to the corrective action.

(s) The petroleum storage tank remediation account may not be used to reimburse any person for corrective action contained in a reimbursement claim filed with the commission after March 1, 2012 ~~2008~~.

SECTION 3. Section 26.3574(b), Water Code, is amended to read as follows:

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

(1) \$3.75 [~~\$12.50~~] for each delivery into a cargo tank having a capacity of less than 2,500 gallons for the state fiscal year beginning September 1, 2007 [~~2001~~, and the state fiscal year beginning September 1, 2002; and \$10.00 for each delivery into a cargo tank having a capacity of less than 2,500 gallons for the state fiscal year beginning September 1, 2003], through the state fiscal year ending August 31, 2011 [~~2007~~];

(2) \$7.50 [~~\$25.00~~] for each delivery into a cargo tank having a capacity of 2,500 gallons or more but less than 5,000 gallons for the state fiscal year beginning September 1, 2007 [~~2001~~, and the state fiscal year beginning September 1, 2002; and \$20.00 for each delivery into a cargo tank having a capacity of 2,500 gallons or more but less than 5,000 gallons for the state fiscal year beginning September 1, 2003], through the state fiscal year ending August 31, 2011 [~~2007~~];

(3) \$11.75 [~~\$37.50~~] for each delivery into a cargo tank having a capacity of 5,000 gallons or more but less than 8,000 gallons for the state fiscal year beginning September 1, 2007 [~~2001~~, and the state fiscal year beginning September 1, 2002; and \$30.00 for each delivery into a cargo tank having a capacity of 5,000 gallons or more but less than 8,000 gallons for the state fiscal year beginning September 1, 2003], through the state fiscal year ending August 31, 2011 [~~2007~~];

(4) \$15.00 [~~\$50.00~~] for each delivery into a cargo tank having a capacity of 8,000 gallons or more but less than 10,000 gallons for the state fiscal year beginning September 1, 2007 [~~2001~~, and the state fiscal year beginning September 1, 2002; and \$40.00 for each delivery into a cargo tank having a capacity of 8,000 gallons or more but less than 10,000 gallons for the state fiscal year beginning September 1, 2003], through the state fiscal year ending August 31, 2011 [~~2007~~]; and

(5) \$7.50 [~~a \$25.00 fee~~] for each increment of 5,000 gallons or any part thereof delivered into a cargo tank having a capacity of 10,000 gallons or more for the state fiscal year beginning September 1, 2007 [~~2001~~, and the state fiscal year beginning September 1, 2002; and \$20.00 for each increment of 5,000 gallons or any part thereof delivered into a cargo tank having a capacity of 10,000 gallons or more for the state fiscal year beginning September 1, 2003], through the state fiscal year ending August 31, 2011 [~~2007~~].

SECTION 4. Sections 26.358(d), (f), and (g), Water Code, are amended to read as follows:

(d) The commission shall impose an annual facility fee on a facility that operates one or more underground or aboveground storage tanks if the fee charged under Section 26.3574 is discontinued. The commission may also impose reasonable interest and penalties for late payment of the fee as provided by commission rule. The commission may establish a fee schedule that will generate an amount of money sufficient to fund the commission's budget for the regulatory program regarding underground and aboveground storage tanks authorized by this subchapter.

(f) The amount of an ~~[maximum]~~ annual fee that the commission may impose on a facility under Subsection (d) is equal to the amount set by the commission [~~is~~ ~~\$25~~] for each aboveground storage tank and [~~\$50~~] for each underground storage tank operated at the facility.

(g) The commission shall collect any ~~[the]~~ fees imposed under this section on dates set by commission rule. The period between collection dates may not exceed two years.

SECTION 5. Section 26.361, Water Code, is amended to read as follows:

Sec. 26.361. EXPIRATION OF REIMBURSEMENT PROGRAM. Notwithstanding any other provision of this subchapter, the reimbursement program established under this subchapter expires September 1, 2012 [~~2008~~]. On or after September 1, 2012 [~~2008~~], the commission may not use money from the petroleum storage tank remediation account to reimburse an eligible owner or operator for any expenses of corrective action or to pay the claim of a person who has contracted with an eligible owner or operator to perform corrective action.

SECTION 6. Notwithstanding any other provision of this Act, Section 26.3573(r-1), Water Code, as amended by this Act, takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, Section 26.3573(r-1), Water Code, as amended by this Act, takes effect August 27, 2007.

The amendment to **CSHB 3554** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent: Ogden.

On motion of Senator Duncan and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSHB 3554 as amended was passed to third reading by a viva voce vote.

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

Absent: Ogden.

COMMITTEE SUBSTITUTE HOUSE BILL 3554 ON THIRD READING

Senator Duncan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 3554** be placed on its third reading and final passage.

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

Absent: Ogden.

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 3699 ON SECOND READING**

Senator Williams moved to suspend the regular order of business to take up for consideration **CSHB 3699** at this time on its second reading:

CSHB 3699, Relating to the management of public school land and the investment of the permanent school fund.

The motion prevailed.

Senator Nelson asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time and was passed to third reading by a viva voce vote.

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

Nays: Nelson.

Absent: Ogden.

**COMMITTEE SUBSTITUTE
HOUSE BILL 3699 ON THIRD READING**

Senator Williams moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 3699** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Nelson.

Absent: Ogden.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 1. (Same as previous roll call)

**COMMITTEE SUBSTITUTE
HOUSE BILL 4113 ON SECOND READING**

On motion of Senator Ellis and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 4113** at this time on its second reading:

CSHB 4113, Relating to the Buffalo Bayou Management District.

The bill was read second time.

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 4113** (Senate committee printing) by striking SECTION 5 of the bill (page 3, lines 36 through 41) and renumbering subsequent SECTIONS accordingly.

The amendment to **CSHB 4113** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent: Ogden.

On motion of Senator Ellis and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSHB 4113 as amended was passed to third reading by a viva voce vote.

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

Absent: Ogden.

VOTE RECONSIDERED

On motion of Senator Ellis and by unanimous consent, the vote by which **CSHB 4113** was passed to third reading was reconsidered.

Question — Shall **CSHB 4113** as amended be passed to third reading?

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSHB 4113** (Senate committee printing) as follows:

(1) In Section 1 of the bill, in amended Section 4, Chapter 997, Acts of the 78th Legislature, Regular Session, 2003 (page 1, line 41), strike "west" and substitute "east".

(2) In Section 3 of the bill, in amended Section 3820.055(a), Special District Local Laws Code (page 2, line 61), strike "Barrett Sides" and substitute "Ted Kennedy".

The amendment to **CSHB 4113** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2 except as follows:

Absent: Ogden.

On motion of Senator Ellis and by unanimous consent, the caption was again amended to conform to the body of the bill as amended.

CSHB 4113 as amended was again passed to third reading by a viva voce vote.

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

Absent: Ogden.

COMMITTEE SUBSTITUTE HOUSE BILL 4113 ON THIRD READING

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 4113** be placed on its third reading and final passage.

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

Absent: Ogden.

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

HOUSE BILL 3984 ON SECOND READING

On motion of Senator Estes and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 3984** at this time on its second reading:

HB 3984, Relating to the creation of the Double Platinum Ranch Water Control and Improvement District No. 1 of Grayson County; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

The bill was read second time and was passed to third reading by a viva voce vote.

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

Absent: Ogden.

HOUSE BILL 3984 ON THIRD READING

Senator Estes moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3984** be placed on its third reading and final passage.

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

Absent: Ogden.

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

COMMITTEE SUBSTITUTE HOUSE BILL 3430 ON SECOND READING

On motion of Senator Hegar and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 3430** at this time on its second reading:

CSHB 3430, Relating to the online availability of information about state expenditures, including the creation of a state database containing information on state expenditures, and to certain comptroller reports.

The bill was read second time.

Senator Hegar offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 3430** (Senate committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION ____. Section 2177.052, Government Code, is transferred to Chapter 322, Government Code, redesignated as Section 322.020, and amended to read as follows:

Sec. 322.020 [~~2177.052~~]. MAJOR CONTRACTS DATABASE. (a) In this section, "major contract" means:

(1) a contract for which notice is required under one of the following sections [that has a value that is expected to be at least \$5 million computed as the]:

(A) Section 2054.008 [(1) initial value of the contract];

(B) Section 2166.2551;

(C) Section 2254.006; or

(D) Section 2254.0301; or

(2) a contract, including an amendment, modification, renewal, or extension:

(A) for which notice is not required under a section listed in Subdivision (1);

(B) that is not a purchase order, an interagency contract, or a contract paid only with funds not appropriated by the General Appropriations Act; and

(C) with a value that exceeds \$50,000 [total value of the contract after all potential term extensions].

(b) Each state agency shall provide the Legislative Budget Board [commission] copies of the following documents:

(1) each major contract entered into by the agency; and

(2) each request for proposal, invitation to bid, or comparable solicitation related to the major contract.

(c) The Legislative Budget Board [commission] shall post on the Internet [include in the information posted on the electronic procurement marketplace]:

(1) each major contract of a state agency [~~including the commission~~]; and

(2) each request for proposal, invitation to bid, or comparable solicitation related to the major contract.

(d) [~~The commission shall allow Texas governmental entities, including legislative entities, access to the information posted under this section.~~

~~(e)~~ The Legislative Budget Board [commission] shall allow public access to the information posted under this section, except for information that is not subject to disclosure under Chapter 552. Information that is not subject to disclosure under Chapter 552 must be referenced in an appendix that generally describes the information without disclosing the specific content of the information.

~~(e)~~ [(f)] The Legislative Budget Board [commission] shall make the information searchable by contract value, state agency, and vendor. The Legislative Budget Board [commission] may make the information searchable by other subjects as appropriate.

(f) In this section, "state agency" has the meaning assigned by Section 2054.003, except that the term does not include a university system or institution of higher education, the Health and Human Services Commission, an agency identified in Section 531.001(4), or the Texas Department of Transportation.

SECTION _____. With respect to Section 322.020(c), Government Code, as amended by this Act, the change in law made by this Act applies only in relation to a major contract:

(1) entered into on or after the effective date of this Act, for purposes of complying with Section 322.020(c)(1), Government Code; and

(2) for which a request for proposal, invitation to bid, or comparable solicitation is made on or after the effective date of this Act, for purposes of complying with Section 322.020(c)(2), Government Code.

The amendment to **CSHB 3430** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent: Ogden.

Senator Janek offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSHB 3430** (Senate committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering the remaining SECTIONS of the bill accordingly:

SECTION __. Subchapter Z, Chapter 51, Education Code, is amended by adding Section 51.953 to read as follows:

Sec. 51.953. CERTAIN REVENUE RECEIVED FROM STUDENT HEALTH CENTER SERVICES. (a) In this section:

(1) "Health benefit plan" means any health benefit plan regulated under the Insurance Code, including:

(A) an individual or group health insurance policy; or

(B) an evidence of coverage issued by a health maintenance organization.

(2) "Institution of higher education" has the meaning assigned by Section 61.003.

(b) Amounts received by an institution of higher education from a health benefit plan issuer as a result of a claim filed with the issuer by or on behalf of the institution's student health center are institutional funds under Section 51.009 and may be used only for the construction, improvement, operation, or maintenance of the student health center or to increase or enhance the services offered by the student health center. It is the intent of the legislature that those amounts be in addition to other amounts of money allocated to the student health center and those other amounts not be reduced.

The amendment to **CSHB 3430** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2 except as follows:

Absent: Ogden.

Senator Lucio offered the following amendment to the bill:

Floor Amendment No. 3

Amend **CSHB 3430** (committee printing) by adding the following appropriately numbered SECTIONS to read as follows and renumbering subsequent SECTIONS appropriately:

SECTION __. Subdivisions (2) and (3), Section 2006.001, Government Code, are amended to read as follows:

(2) "Small business" means a legal entity, including a corporation, partnership, or sole proprietorship, that:

(A) is formed for the purpose of making a profit;

(B) is independently owned and operated; and

(C) has fewer than 100 employees or less than \$6 [~~\$1~~] million in annual gross receipts.

(3) "State agency" means a department, board, bureau, commission, division, office, council, or other agency of the state and includes an officer who is authorized by law to determine contested cases.

SECTION ____. Section 2006.002, Government Code, is amended by amending Subsections (c) and (d) and adding Subsections (c-1) and (g) to read as follows:

(c) Before adopting a rule that may [~~would~~] have an adverse economic effect on small businesses, a state agency shall prepare:

(1) an economic impact statement that estimates the number of small businesses subject to the proposed rule, projects the economic impact of the rule on small businesses, and describes alternative methods of achieving the purpose of the proposed rule; and

(2) a regulatory flexibility analysis that includes the agency's consideration of alternative methods of achieving the purpose of the proposed rule.

(c-1) The analysis under Subsection (c) shall consider, if consistent with the health, safety, and environmental and economic welfare of the state, using regulatory methods that will accomplish the objectives of applicable rules while minimizing adverse impacts on small businesses. The state agency must include in the analysis several proposed methods of reducing the adverse impact of a proposed rule on a small business [a statement of the effect of the rule on small businesses. The statement must include:

[(1) an analysis of the cost of compliance with the rule for small businesses; and

[(2) a comparison of the cost of compliance for small businesses with the cost of compliance for the largest businesses affected by the rule, using at least one of the following standards:

[(A) cost for each employee;

[(B) cost for each hour of labor; or

[(C) cost for each \$100 of sales].

(d) The agency shall include the economic impact statement and regulatory flexibility analysis [statement of effect] as part of the notice of the proposed rule that the agency files with the secretary of state for publication in the Texas Register and shall provide copies to the standing committee of each house of the legislature that is charged with reviewing the proposed rule.

(g) The attorney general, in consultation with the comptroller, shall prepare guidelines to assist a state agency:

(1) in determining a proposed rule's potential adverse economic effects on small businesses; and

(2) in identifying and evaluating alternative methods of achieving the purpose of a proposed rule.

SECTION __. Section 2006.002, Government Code, as amended by this Act, applies only to a rule that is adopted on or after January 1, 2008. A rule adopted before that date is governed by the law in effect when the rule was adopted, and the former law is continued in effect for that purpose.

The amendment to **CSHB 3430** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 3 except as follows:

Absent: Ogden.

On motion of Senator Hegar and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSHB 3430 as amended was passed to third reading by a viva voce vote.

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

Absent: Ogden.

COMMITTEE SUBSTITUTE HOUSE BILL 3430 ON THIRD READING

Senator Hegar moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 3430** be placed on its third reading and final passage.

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

Absent: Ogden.

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

HOUSE BILL 3584 ON SECOND READING

On motion of Senator Van de Putte and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 3584** at this time on its second reading:

HB 3584, Relating to the creation of the offense of organized retail theft.

The bill was read second time.

Senator Wentworth offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 3584** (Senate committee report) as follows:

(1) In SECTION 1 of the bill, in added Section 31.16, Penal Code (page 1, between lines 39 and 40), following added Subsection (d), add the following:

(e) For the purposes of punishment, an offense under this section or an offense described by Section 31.03(e)(1) or (e)(2) is increased to the next highest category of offense if it is shown at the trial of the offense that the defendant, with the intent that a

distraction from the commission of the offense be created, intentionally, knowingly, or recklessly caused an alarm to sound or otherwise become activated during the commission of the offense.

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

SECTION _____. The change in law made by this Act in adding Section 31.16(e), Penal Code, 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 the purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before that date.

The amendment to **HB 3584** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent: Ogden.

On motion of Senator Van de Putte and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 3584 as amended was passed to third reading by a viva voce vote.

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

Absent: Ogden.

HOUSE BILL 3584 ON THIRD READING

Senator Van de Putte moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3584** be placed on its third reading and final passage.

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

Absent: Ogden.

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

HOUSE BILL 442 ON SECOND READING

On motion of Senator Deuell and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 442** at this time on its second reading:

HB 442, Relating to taking or attempting to take a stun gun from a peace officer or certain other officers.

The bill was read second time.

Senator Deuell offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **HB 442** by striking SECTION 2 of the bill (House engrossment, page 1, line 17), adding the following appropriately numbered SECTIONS to the bill, and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION __. Section 46.01, Penal Code, is amended by adding Subdivision (17) to read as follows:

(17) "Stun gun" has the meaning assigned by Section 38.14.

SECTION __. Section 46.03, Penal Code, is amended by adding Subsections (j) and (k) to read as follows:

(j) It is a defense to prosecution under this section that the actor possessed a stun gun and was, at the time of the offense:

(1) a license holder under Subchapter H, Chapter 411, Government Code, who engaged in the conduct after successfully completing the training described by Section 411.0207, Government Code; or

(2) a security officer registered with the Private Security Bureau of the Department of Public Safety who engaged in the conduct:

(A) after successfully completing the training described by Section 411.0207, Government Code; and

(B) while traveling to or from the actor's place of assignment or in the actual discharge of duties as a security officer.

(k) It is an exception to the application of this section that the actor possessed a stun gun and was, at the time of the offense, a peace officer, including a commissioned peace officer of a recognized state or a special investigator under Article 2.122, Code of Criminal Procedure, who was authorized by law to carry a weapon and who engaged in the conduct after successfully completing the training described by Section 411.0207, Government Code.

SECTION __. Section 46.05, Penal Code, is amended by amending Subsections (a) and (b) and adding Subsections (h) and (i) to read as follows:

(a) A person commits an offense if he intentionally or knowingly possesses, manufactures, transports, repairs, or sells:

- (1) an explosive weapon;
- (2) a machine gun;
- (3) a short-barrel firearm;
- (4) a firearm silencer;
- (5) a switchblade knife;
- (6) knuckles;
- (7) armor-piercing ammunition;
- (8) a chemical dispensing device; ~~or~~
- (9) a zip gun; or
- (10) a stun gun.

(b) It is a defense to prosecution under Subsections (a)(1)-(9) ~~[this section]~~ that the actor's conduct was incidental to the performance of official duty by the armed forces or national guard, a governmental law enforcement agency, or a correctional facility.

(h) It is a defense to prosecution under Subsection (a)(10) that the actor was, at the time of the offense:

(1) a license holder under Subchapter H, Chapter 411, Government Code, who engaged in the conduct after successfully completing the training described by Section 411.0207, Government Code; or

(2) a security officer registered with the Private Security Bureau of the Department of Public Safety who engaged in the conduct:

(A) after successfully completing the training described by Section 411.0207, Government Code; and

(B) while traveling to or from the actor's place of assignment or in the actual discharge of duties as a security officer.

(i) It is an exception to the application of Subsection (a)(10) that the actor was, at the time of the offense, a peace officer, including a commissioned peace officer of a recognized state or a special investigator under Article 2.122, Code of Criminal Procedure, who was authorized by law to carry a weapon and who engaged in the conduct after successfully completing the training described by Section 411.0207, Government Code.

SECTION __. Subchapter A, Chapter 411, Government Code, is amended by adding Section 411.0207 to read as follows:

Sec. 411.0207. STUN GUN TRAINING. (a) In this section, "stun gun" has the meaning assigned by Section 46.01, Penal Code.

(b) The director by rule shall establish minimum standards for stun gun proficiency and shall develop and make widely available throughout the state a course to teach stun gun proficiency and an examination to measure stun gun proficiency. The examination to measure stun gun proficiency must require an actual demonstration by the applicant of the applicant's ability to safely and proficiently use a stun gun.

(c) Except as provided by Subsection (d), the department shall charge a fee for the training offered under this section.

(d) The director by rule shall establish minimum standards for the certification of stun gun instructors. An applicant for certification as a stun gun instructor under this subsection must be a peace officer employed by the department and must successfully complete the training offered under this section before the department may certify the applicant as a stun gun instructor. An applicant for certification as a stun gun instructor is not required to pay a fee for the training under this section.

SECTION _____. The public safety director of the Department of Public Safety shall adopt the rules required by Section 411.0207, Government Code, as added by this Act, not later than November 1, 2007.

SECTION __. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 2007.

(b) The change in law made by this Act in amending Sections 46.03 and 46.05, Penal Code, takes effect March 1, 2008.

The amendment to **HB 442** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Committee Amendment No. 1 except as follows:

Absent: Ogden.

Senator Van de Putte offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 442** on second reading by adding the following appropriately numbered SECTIONS and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION __. The heading to Section 38.14, Penal Code, is amended to read as follows:

Sec. 38.14. TAKING OR ATTEMPTING TO TAKE WEAPON FROM PEACE OFFICER, EMPLOYEE OR OFFICIAL OF CORRECTIONAL FACILITY THAT IS OPERATED BY A COUNTY OR MUNICIPALITY, PAROLE OFFICER, OR COMMUNITY SUPERVISION AND CORRECTIONS DEPARTMENT OFFICER.

SECTION __. Sections 38.14(b), (c), and (d), Penal Code, are amended to read as follows:

(b) A person commits an offense if the person intentionally or knowingly and with force takes or attempts to take from a peace officer, employee or official of a correctional facility that is operated by a county or municipality, parole officer, or community supervision and corrections department officer the officer's, employee's, or official's firearm, nightstick, stun gun, or personal protection chemical dispensing device with the intention of harming the officer, employee, or official or a third person.

(c) The actor is presumed to have known that the peace officer, employee or official of a correctional facility that is operated by a county or municipality, parole officer, or community supervision and corrections department officer was a peace officer, employee or official of a correctional facility that is operated by a county or municipality, parole officer, or community supervision and corrections department officer if:

(1) the officer, employee, or official was wearing a distinctive uniform or badge indicating his employment;[7] or

(2) [~~#~~] the officer, employee, or official identified himself as a peace officer, employee or official of a correctional facility that is operated by a county or municipality, parole officer, or community supervision and corrections department officer.

(d) It is a defense to prosecution under this section that the defendant took or attempted to take the weapon from a peace officer, employee or official of a correctional facility that is operated by a county or municipality, parole officer, or community supervision and corrections department officer who was using force against the defendant or another in excess of the amount of force permitted by law.

SECTION __. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect at the time the offense was

committed, and the former law is continued in effect for that purpose. For the purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

The amendment to **HB 442** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent: Ogden.

On motion of Senator Deuell and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 442 as amended was passed to third reading by a viva voce vote.

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

Absent: Ogden.

HOUSE BILL 442 ON THIRD READING

Senator Deuell moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 442** be placed on its third reading and final passage.

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

Absent: Ogden.

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

COMMITTEE SUBSTITUTE

HOUSE BILL 3271 ON SECOND READING

On motion of Senator Janek and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 3271** at this time on its second reading:

CSHB 3271, Relating to the biennial hearing concerning title insurance and related information.

The bill was read second time.

Senator Janek offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 3271** (Senate committee printing) as follows:

(1) In SECTION 1 of the bill, in amended Section 2703.153, Insurance Code, strike added Subsections (c) and (d) of that section (page 1, lines 26-46) and substitute the following:

(c) If the department requires a title insurance company or title insurance agent to include new or different information in the statistical report, that information may be considered by the commissioner in fixing premium rates if the information collected is reasonably credible for the purposes for which the information is to be used.

(d) A title insurance company or a title insurance agent aggrieved by a department requirement concerning the submission of information may bring a suit in a district court in Travis County alleging that the request for information:

(1) is unduly burdensome; or

(2) is not a request for information material to fixing and promulgating premium rates or another matter that may be the subject of the biennial hearing and is not a request reasonably designed to lead to the discovery of that information.

(2) In SECTION 1 of the bill, in amended Section 2703.153, Insurance Code, strike added Subsections (f) and (g) of that section (page 1, lines 55-61) and substitute the following:

(f) A title insurance company or title insurance agent must bring suit under Subsection (d) not later than the 30th day after the date the company or agent receives the request for information from the department.

(g) This section may not be construed to limit the department's authority to request information under Section 38.001 or other applicable provisions of this code.

(3) In SECTION 2 of the bill, in amended Section 2703.204, Insurance Code, strike added Subsections (b), (c), (d), and (e) of that section (page 2, lines 14-32) and substitute the following:

(b) A party to the ratemaking phase of the biennial hearing may request that the commissioner remove any other party to the ratemaking phase of the hearing on the grounds that the other party does not have a substantial interest in title insurance. A decision of the commission to deny or grant the request is final and subject to appeal in accordance with Section 36.202.

The amendment to **CSHB 3271** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

On motion of Senator Janek and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSHB 3271 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

COMMITTEE SUBSTITUTE HOUSE BILL 3271 ON THIRD READING

Senator Janek moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 3271** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 2949 ON SECOND READING

On motion of Senator Eltife and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2949** at this time on its second reading:

HB 2949, Relating to certain fees in the administration of the teen court program in the Texas-Louisiana border region.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 2949 ON THIRD READING

Senator Eltife moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2949** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 4094 ON SECOND READING

On motion of Senator Seliger and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 4094** at this time on its second reading:

HB 4094, Relating to the fees assessed in certain cases filed in the Midland County courts at law.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 4094 ON THIRD READING

Senator Seliger moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 4094** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

COMMITTEE SUBSTITUTE**HOUSE BILL 3443 ON SECOND READING**

On motion of Senator West and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 3443** at this time on its second reading:

CSHB 3443, Relating to the Texas hospital-based nursing education partnership grant program.

The bill was read second time.

Senator West offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 3443** (Senate committee printing) as follows:

(1) In SECTION 1 of the bill, between "increase" and "graduation," (page 1, line 24) insert "the number of students enrolled in and".

(2) In SECTION 1 of the bill between "program," (page 1, line 35) and "the," insert "to the extent funds are available under Section 61.9755,".

(3) In SECTION 1 of the bill by adding by adding the following new subsection (4) to Section 61.9754, and renumbering subsequent subsections accordingly:

(4) provides for completion of a class admitted under this project to be funded by all members of the partnership if the funded project ends before the class graduation date;

(4) In SECTION 1 of the bill, strike "end of the" (page 3, line 7).

(5) In SECTION 1 of the bill, substitute Sec. 61.9758 (page 3, lines 26-32) with a new Sec. 61.9758 to read as follows:

Sec. 61.9758. REPORTING REQUIREMENTS. (a) Each hospital-based nursing education partnership that receives a grant under this subchapter shall submit to the board narrative and financial reports that include information concerning the extent to which during the reporting period the partnership has complied with accountability standards established by the board.

(b) Not later than December 31 of each even-numbered year, the board shall submit a report to the governor, lieutenant governor, and speaker of the house of representatives. The report shall include a list and description of partnerships created under this subchapter, and the number of new nursing student enrollees.

(6) In SECTION 1 of the bill, following Sec. 61.9758, add the following:

Sec. 61.9759. ADMINISTRATIVE COSTS. A reasonable amount, not to exceed three percent, of any money appropriated for purposes of this subchapter may be used to pay the costs of administering this subchapter.

(7) In SECTION 2 of the bill, insert "The board may adopt the initial rules in the manner provided by law for emergency rules." after "Act." (page 3, line 38).

The amendment to **CSHB 3443** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

On motion of Senator West and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSHB 3443 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

**COMMITTEE SUBSTITUTE
HOUSE BILL 3443 ON THIRD READING**

Senator West moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 3443** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

(Senator Watson in Chair)

HOUSE BILL 2978 ON SECOND READING

On motion of Senator Shapiro and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2978** at this time on its second reading:

HB 2978, Relating to engineering recruitment programs established by the Texas Higher Education Coordinating Board.

The bill was read second time.

Senator Shapiro offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **HB 2978** (House engrossed version), in SECTION 1 of the bill, by striking added Subdivisions (2) and (3), Subsection (b), Section 61.792, Education Code (page 2, lines 8 through 18), and substituting the following:

(2) have graduated from high school with a grade point average of at least 3.5 on a four-point scale or the equivalent in mathematics and science courses offered under the recommended or advanced high school program under Section 28.025(a); and

(3) maintain an overall grade point average of at least 3.0 on a four-point scale at the general academic teaching institution in which the student is enrolled.

The amendment to **HB 2978** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Committee Amendment No. 1.

On motion of Senator Shapiro and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 2978 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 2978 ON THIRD READING

Senator Shapiro moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2978** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

LEAVE OF ABSENCE

On motion of Senator Whitmire, Senator Gallegos was granted leave of absence for the remainder of the day on account of illness.

HOUSE BILL 2701 ON SECOND READING

Senator Lucio moved to suspend the regular order of business to take up for consideration **HB 2701** at this time on its second reading:

HB 2701, Relating to the regulation of horse and dog racing.

The motion prevailed.

Senator Shapiro asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time.

Senator Lucio offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 2701** (Senate committee printing) as follows:

(1) Strike Section 3 of the bill (page 1, lines 28-37).

(2) Insert the following appropriately numbered SECTION to the bill and renumber existing SECTIONS accordingly:

SECTION __. Section 6.06, Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes), is amended by amending Subsection (h) and adding Subsections (j) and (k) to read as follows:

(h) A person may not own more than a five percent interest in more than three [~~two~~] racetracks licensed under this Act.

(j) Notwithstanding any other law, a person who owns an interest in two or more racetracks licensed under this Act and who also owns an interest in a license issued under Subtitle B, Title 3, Alcoholic Beverage Code, may own an interest in the premises of another holder of a license or permit under Title 3, Alcoholic Beverage Code, if the premises of that other license or permit holder are part of the premises of a racetrack licensed under this Act.

(k) The commission shall review the ownership and management of a license issued under this article every five years beginning on the fifth anniversary of the issuance of the license. In performing the review, the commission may require the license holder to provide any information that would be required to be provided in connection with an original license application under Article 5 of this Act or this article. The commission shall charge fees for the review in amounts sufficient to implement this subsection.

The amendment to **HB 2701** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent-excused: Gallegos.

On motion of Senator Lucio and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 2701 as amended was passed to third reading by a viva voce vote.

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

Nays: Shapiro.

Absent-excused: Gallegos.

HOUSE BILL 2701 ON THIRD READING

Senator Lucio moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2701** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Shapiro.

Absent-excused: Gallegos.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 1. (Same as previous roll call)

HOUSE BILL 946 ON SECOND READING

On motion of Senator Whitmire and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 946** at this time on its second reading:

HB 946, Relating to conduct that constitutes the offense of endangering a child.

The bill was read second time.

Senator West offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 946** (Senate committee printing) as follows:

(1) In SECTION 1 of the bill, in amended Section 22.041(c-1), Penal Code, at the end of Subdivision (1) (page 1, line 18), strike "or".

(2) In SECTION 1 of the bill, in amended Section 22.041(c-1), Penal Code, at the end of Subdivision (2) (page 1, line 23), between "child's body" and the period, insert:

; or

(3) the person injected, ingested, inhaled, or otherwise introduced a controlled substance listed in Penalty Group 1, Section 481.102, Health and Safety Code, into the human body when the person was not in lawful possession of the substance as defined by Section 481.002(24) of that code".

The amendment to **HB 946** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent-excused: Gallegos.

Senator Estes offered the following amendment to the bill:

Floor Amendment No. 2

Amend **HB 946** by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS accordingly:

SECTION __. Subchapter D, Chapter 481, Health and Safety Code, is amended by adding Section 481.1122 to read as follows:

Sec. 481.1122. MANUFACTURE OF SUBSTANCE IN PENALTY GROUP 1: PRESENCE OF CHILD. If it is shown at the punishment phase of a trial for the manufacture of a controlled substance listed in Penalty Group 1 that when the offense was committed a child younger than 18 years of age was present on the premises where the offense was committed:

(1) the punishments specified by Sections 481.112(b) and (c) are increased by one degree;

(2) the minimum term of imprisonment specified by Section 481.112(e) is increased to 15 years and the maximum fine specified by that section is increased to \$150,000; and

(3) the minimum term of imprisonment specified by Section 481.112(f) is increased to 20 years and the maximum fine specified by that section is increased to \$300,000.

The amendment to **HB 946** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2 except as follows:

Absent-excused: Gallegos.

On motion of Senator Whitmire and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 946 as amended was passed to third reading by a viva voce vote.

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

Absent-excused: Gallegos.

HOUSE BILL 946 ON THIRD READING

Senator Whitmire moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 946** be placed on its third reading and final passage.

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

Absent-excused: Gallegos.

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

COMMITTEE SUBSTITUTE HOUSE BILL 2994 ON SECOND READING

The Presiding Officer, Senator Watson in Chair, laid before the Senate **CSHB 2994** by Senator Hegar on its second reading. The bill had been read second time and further consideration postponed:

CSHB 2994, Relating to certain agreements made with electric power generation facilities under the Property Redevelopment and Tax Abatement Act and to similar agreements and compliance reports under the Texas Economic Development Act.

Question — Shall **CSHB 2994** be passed to third reading?

Senator Ogden offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 2994** (Senate committee printing) by adding the following SECTION to the bill, appropriately numbered, and renumbering existing SECTIONS accordingly:

SECTION __. Section 403.302(d), Government Code, is amended to read as follows:

(d) For the purposes of this section, "taxable value" means the market value of all taxable property less:

(1) the total dollar amount of any residence homestead exemptions lawfully granted under Section 11.13(b) or (c), Tax Code, in the year that is the subject of the study for each school district;

(2) one-half of the total dollar amount of any residence homestead exemptions granted under Section 11.13(n), Tax Code, in the year that is the subject of the study for each school district;

(3) the total dollar amount of any exemptions granted before May 31, 1993, within a reinvestment zone under agreements authorized by Chapter 312, Tax Code;

(4) subject to Subsection (e), the total dollar amount of any captured appraised value of property that:

(A) is within a reinvestment zone created on or before May 31, 1999, or is proposed to be included within the boundaries of a reinvestment zone as the boundaries of the zone and the proposed portion of tax increment paid into the tax increment fund by a school district are described in a written notification provided by the municipality or the board of directors of the zone to the governing bodies of the other taxing units in the manner provided by Section 311.003(e), Tax Code, before May 31, 1999, and within the boundaries of the zone as those boundaries existed on September 1, 1999, including subsequent improvements to the property regardless of when made;

(B) generates taxes paid into a tax increment fund created under Chapter 311, Tax Code, under a reinvestment zone financing plan approved under Section 311.011(d), Tax Code, on or before September 1, 1999; and

(C) is eligible for tax increment financing under Chapter 311, Tax Code;

(5) for a school district for which a deduction from taxable value is made under Subdivision (4), an amount equal to the taxable value required to generate revenue when taxed at the school district's current tax rate in an amount that, when added to the taxes of the district paid into a tax increment fund as described by Subdivision (4)(B), is equal to the total amount of taxes the district would have paid into the tax increment fund if the district levied taxes at the rate the district levied in 2005;

(6) the total dollar amount of any exemptions granted under Section 11.251, Tax Code;

(7) the difference between the comptroller's estimate of the market value and the productivity value of land that qualifies for appraisal on the basis of its productive capacity, except that the productivity value estimated by the comptroller may not exceed the fair market value of the land;

(8) the portion of the appraised value of residence homesteads of individuals who receive a tax limitation under Section 11.26, Tax Code, on which school district taxes are not imposed in the year that is the subject of the study, calculated as if the residence homesteads were appraised at the full value required by law;

(9) a portion of the market value of property not otherwise fully taxable by the district at market value because of:

(A) action required by statute or the constitution of this state that, if the tax rate adopted by the district is applied to it, produces an amount equal to the difference between the tax that the district would have imposed on the property if the property were fully taxable at market value and the tax that the district is actually authorized to impose on the property, if this subsection does not otherwise require that portion to be deducted; or

(B) action taken by the district under Subchapter B or C, Chapter 313, Tax Code, before January 1, 2008;

(10) the market value of all tangible personal property, other than manufactured homes, owned by a family or individual and not held or used for the production of income;

(11) the appraised value of property the collection of delinquent taxes on which is deferred under Section 33.06, Tax Code;

(12) the portion of the appraised value of property the collection of delinquent taxes on which is deferred under Section 33.065, Tax Code; and

(13) the amount by which the market value of a residence homestead to which Section 23.23, Tax Code, applies exceeds the appraised value of that property as calculated under that section.

The amendment to **CSHB 2994** was read.

On motion of Senator Brimer, Floor Amendment No. 1 was tabled by the following vote: Yeas 18, Nays 11, Present-not voting 1.

Yeas: Averitt, Brimer, Carona, Duncan, Estes, Harris, Jackson, Janek, Lucio, Patrick, Shapiro, Uresti, Van de Putte, Watson, Wentworth, West, Williams, Zaffirini.

Nays: Ellis, Eltife, Fraser, Hegar, Hinojosa, Nelson, Nichols, Ogden, Seliger, Shapleigh, Whitmire.

Present-not voting: Deuell.

Absent-excused: Gallegos.

CSHB 2994 was passed to third reading by a viva voce vote.

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

Absent-excused: Gallegos.

**COMMITTEE SUBSTITUTE
HOUSE BILL 2994 ON THIRD READING**

Senator Hegar moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2994** be placed on its third reading and final passage.

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

Yeas: Averitt, Brimer, Carona, Deuell, Duncan, Ellis, Estes, Fraser, Harris, Hegar, Hinojosa, Jackson, Janek, Lucio, Nelson, Nichols, Patrick, Seliger, Shapiro, Shapleigh, Uresti, Van de Putte, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Eltife, Ogden, Watson.

Absent-excused: Gallegos.

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

HOUSE BILL 3154 ON SECOND READING

On motion of Senator Deuell and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 3154** at this time on its second reading:

HB 3154, Relating to the creation of a review committee to study the provision of indigent health care through county and regional health care services.

The bill was read second time.

Senator Deuell offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 3154** by amending Subsection (c)(4), page 1, line 19 engrossed version by inserting ", for-profit" between "public" and "and".

The amendment to **HB 3154** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent-excused: Gallegos.

Senator Deuell offered the following amendment to the bill:

Floor Amendment No. 2

Amend **HB 3154** by inserting the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION __. Subtitle B, Title 4, Health and Safety Code, is amended by adding Chapter 254 to read as follows:

CHAPTER 254. INDEPENDENT EMERGENCY MEDICAL CARE FACILITIES

Sec. 254.001. DEFINITIONS. In this chapter:

(1) "Department" means the Department of State Health Services.

(2) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

(3) "Facility" means an independent emergency medical care facility.

(4) "Independent emergency medical care facility" means a facility, structurally separate and distinct from a hospital, that:

(A) receives and treats individuals requiring treatment or stabilization of an emergency or immediate medical condition;

(B) determines if an individual has an emergency or immediate medical condition; or

(C) except for mass trauma preparation or planning, is fully capable of providing Level IV trauma care, as defined by the department.

Sec. 254.002. LICENSE REQUIRED. (a) Except as provided by Section 254.003, a person may not establish or operate an independent emergency medical care facility in this state without a license issued under this chapter.

(b) Each facility must have a separate license.

(c) A license issued under this chapter is not transferable or assignable.

Sec. 254.003. EXEMPTIONS FROM LICENSING REQUIREMENT. The following facilities are not required to be licensed under this chapter:

(1) a licensed hospital;

(2) a hospital that is owned or operated by this state;

(3) a facility located within or connected to a hospital described by Subdivision (1) or (2); or

(4) an independent emergency medical care facility that is owned or operated by a hospital described by Subdivision (1) or (2).

Sec. 254.004. LICENSE APPLICATION AND ISSUANCE. (a) An applicant for a license under this chapter must submit an application to the department on a form prescribed by the department.

(b) Each application must be accompanied by a nonrefundable license fee in an amount set by the executive commissioner.

(c) The application must contain evidence that the composition of the facility's staff meets standards adopted by the executive commissioner under this chapter.

(d) The department shall issue a license if, after inspection and investigation, it finds that the applicant and the facility meet the requirements of this chapter and the standards adopted under this chapter.

(e) The license fee must be paid every two years on renewal of the license.

Sec. 254.005. FACILITY REQUIREMENTS. (a) To be licensed under this chapter, a facility must:

(1) provide necessary medical equipment for the evaluation or resuscitation of critically or seriously injured patients, including in each treatment room:

(A) airway control and ventilation equipment, including laryngoscope and endotracheal tubes and airway resuscitation equipment;

(B) electrocardiograph, oscilloscope, and defibrillator equipment;

(C) equipment for standard intravenous administration of fluids, catheters, and rapid infusers;

(D) standard surgical sets for thoracostomy, venous cutdown, central line insertion, and cricothyrotomy;

(E) long bone stabilization devices;

(F) stationary and portable x-ray capability;

(G) computed tomography (CT) capability with accuracy, in accordance with the American College of Radiology, sufficient for the definitive diagnosis of all emergency medical conditions as defined by the American College of Emergency Physicians; and

(H) equipment for cardiac resuscitation and newborn and pediatric resuscitation;

(2) if the facility is located 10 miles or less from a licensed hospital, be open to receive patients for a minimum of 12 hours a day, seven days a week, and if the facility is not open 24 hours a day, display clearly visible signage that provides:

(A) an indication of whether the facility is open or closed;

(B) information as to the facility's operating hours; and

(C) clear instructions directing a patient to a licensed hospital emergency room within 10 miles of the facility;

(3) if the facility is located more than 10 miles from a licensed hospital, be open to receive patients 24 hours a day, seven days a week;

(4) if the facility is located more than 30 miles from a licensed hospital, have in immediate proximity a pad suitable for helicopter landing and takeoff;

(5) have a referral, transmission, or admission agreement with a licensed hospital with an emergency room before the facility accepts any patient for treatment or diagnosis;

(6) be staffed with physicians, nurses, and other necessary staff with specialty training or experience in managing catastrophic illnesses or life-threatening injuries, including:

(A) emergency physicians who are credentialed for advanced cardiac life support, advanced trauma life support, and pediatric advanced life support;

(B) registered emergency nurses credentialed for advanced cardiac life support, pediatric advanced life support or emergency nursing pediatric course, and trauma nurse core course;

(C) a laboratory technician certified by the American Society of Clinical Pathologists or the American Medical Technologists to provide on-site clinical laboratory services for standard analysis of blood, urine, and other bodily fluids; and

(D) a radiology technician certified by the American Registry of Radiologic Technicians available to perform clinical radiology services, x-rays, and CT scans;

(7) satisfy the minimum standards established under Section 254.011; and

(8) comply with the applicable guidelines adopted under the Emergency Medical Treatment and Active Labor Act, 42 U.S.C. Section 1395dd.

(b) An insurer or other third-party payor shall provide payment to a facility at the same rate as the rate at which payment is provided to an emergency room attached to a hospital only if the facility is open until at least midnight seven days a week.

Sec. 254.006. INSPECTIONS. The department may inspect a facility at reasonable times as necessary to ensure compliance with this chapter.

Sec. 254.007. MONITORING. If a facility's failure to comply with this chapter creates a serious threat to the health and safety of the public, the department may appoint a monitor for the facility to ensure compliance with this chapter. The facility shall pay the cost of the monitor.

Sec. 254.008. FEES. The executive commissioner shall set fees imposed by this chapter in amounts reasonable and necessary to defray the cost of administering this chapter.

Sec. 254.009. INDEPENDENT EMERGENCY MEDICAL CARE FACILITY LICENSING FUND. All fees collected under this chapter shall be deposited in the state treasury to the credit of the independent emergency medical care facility licensing fund and may be appropriated to the department only to administer and enforce this chapter.

Sec. 254.010. ADOPTION OF RULES. The executive commissioner shall adopt rules necessary to implement this chapter, including requirements for the issuance, renewal, denial, suspension, and revocation of a license to operate a facility.

Sec. 254.011. MINIMUM STANDARDS. (a) Rules adopted under this chapter must contain:

(1) minimum facility design and construction standards that:

(A) are consistent with the American College of Emergency Physicians' published reference "ED Architectural Design"; and

(B) require a minimum of five beds for each 5,000 square feet of facility space; and

(2) standards for:

(A) the qualifications for the facility's professional staff and other personnel consistent with Section 254.005;

(B) the supervision of the facility's professional staff and other personnel;

(C) the provision and coordination of treatment and other services;

(D) the organizational structure, including the lines of authority and the delegation of responsibility;

(E) the keeping of clinical records; and

(F) any other aspect of the operation of a facility that the executive commissioner considers necessary to protect the public.

(b) This section does not authorize the executive commissioner to:

(1) establish the qualifications of a physician or other licensed health care practitioner; or

(2) permit a person to provide health care services who is not authorized to provide those services under another state law.

Sec. 254.012. COMPLAINTS. A person may file a complaint with the department against a facility licensed under this chapter.

Sec. 254.013. DENIAL, SUSPENSION, PROBATION, OR REVOCATION OF LICENSE. (a) The department may deny, suspend, or revoke a license for:

(1) a violation of this chapter or a rule adopted under this chapter; or

(2) a history of continuing noncompliance with this chapter or rules adopted under this chapter.

(b) The denial, suspension, or revocation of a license by the department and the appeal from that action are governed by the procedures for a contested case hearing under Chapter 2001, Government Code.

(c) If the department finds that a facility is in repeated noncompliance with this chapter or rules adopted under this chapter but that the noncompliance does not endanger public health and safety, the department may schedule the facility for probation rather than suspending or revoking the facility's license. The department shall provide notice to the facility of the probation and of the items of noncompliance not later than the 10th day before the date the probation period begins. The department shall designate a period of not less than 30 days during which the facility remains under probation. During the probation period, the facility must correct the items that were in noncompliance and report the corrections to the department for approval.

(d) The department may suspend or revoke the license of a facility that does not correct items that were in noncompliance or that does not comply with this chapter or the rules adopted under this chapter within the applicable probation period.

Sec. 254.014. EMERGENCY SUSPENSION. (a) The department may issue an emergency order to suspend a license issued under this chapter if the department has reasonable cause to believe that the conduct of a license holder creates an immediate danger to the public health and safety.

(b) An emergency suspension under this section is effective on the later of the date stated in the suspension order or the 10th day after the date notice of the suspension is sent to the license holder.

(c) On written request of the license holder, the department shall conduct a hearing not earlier than the seventh day or later than the 10th day after the date the notice of emergency suspension is sent to the license holder to determine if the suspension is to take effect or be modified or rescinded.

(d) A hearing and any appeal under this section are governed by the department's rules for a contested case hearing and Chapter 2001, Government Code.

Sec. 254.015. INJUNCTION. (a) The department may petition a district court for a temporary restraining order to restrain a continuing violation of the standards or licensing requirements provided under this chapter if the department finds that the violation creates an immediate threat to the health and safety of the patients of a facility.

(b) A district court, on petition of the department and on a finding by the court that a person is violating the standards or licensing requirements provided under this chapter, may by injunction:

(1) prohibit a person from continuing a violation of the standards or licensing requirements provided under this chapter;

(2) restrain or prevent the establishment or operation of a facility without a license issued under this chapter; or

(3) grant any other injunctive relief warranted by the facts.

(c) The attorney general shall institute and conduct a suit authorized by this section at the request of the department.

(d) Venue for a suit brought under this section is in the county in which the facility is located or in Travis County.

Sec. 254.016. CRIMINAL PENALTY. (a) A person commits an offense if the person violates Section 254.002(a).

(b) An offense under this section is a misdemeanor punishable by a fine of not more than \$100 for the first offense and not more than \$200 for each subsequent offense.

(c) Each day of a continuing violation constitutes a separate offense.

Sec. 254.017. CIVIL PENALTY. (a) A person who violates this chapter or a rule adopted under this chapter is liable for a civil penalty if the department determines that the violation threatens the health and safety of a patient. A penalty under this section is in an amount of not less than \$100 and not more than \$500 for each violation.

(b) Each day a violation continues constitutes a separate violation for the purposes of this section.

(c) The attorney general may bring suit to recover a civil penalty under this section.

Sec. 254.018. IMPOSITION OF ADMINISTRATIVE PENALTY. (a) The department may impose an administrative penalty on a person licensed under this chapter who violates this chapter or a rule or order adopted under this chapter. A penalty collected under this section or Section 254.019 shall be deposited in the state treasury in the general revenue fund.

(b) A proceeding to impose the penalty is considered to be a contested case under Chapter 2001, Government Code.

(c) The amount of the penalty may not exceed \$1,000 for each violation, and each day a violation continues or occurs is a separate violation for purposes of imposing a penalty. The total amount of the penalty assessed for a violation continuing or occurring on separate days under this subsection may not exceed \$5,000.

(d) The amount shall be based on:

(1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of the violation;

(2) the threat to health or safety caused by the violation;

(3) the history of previous violations;

(4) the amount necessary to deter a future violation;

(5) whether the violator demonstrated good faith, including when applicable whether the violator made good faith efforts to correct the violation; and

(6) any other matter that justice may require.

(e) If the department initially determines that a violation occurred, the department shall give written notice of the report by certified mail to the person.

(f) The notice under Subsection (e) must:

(1) include a brief summary of the alleged violation;

(2) state the amount of the recommended penalty; and

(3) inform the person of the person's right to a hearing on the occurrence of the violation, the amount of the penalty, or both.

(g) Within 20 days after the date the person receives the notice under Subsection (e), the person in writing may:

(1) accept the determination and recommended penalty of the department;

or

(2) make a request for a hearing on the occurrence of the violation, the amount of the penalty, or both.

(h) If the person accepts the determination and recommended penalty or if the person fails to respond to the notice, the commissioner of state health services by order shall approve the determination and impose the recommended penalty.

(i) If the person requests a hearing, the commissioner of state health services shall refer the matter to the State Office of Administrative Hearings, which shall promptly set a hearing date and give written notice of the time and place of the hearing to the person. An administrative law judge of the State Office of Administrative Hearings shall conduct the hearing.

(j) The administrative law judge shall make findings of fact and conclusions of law and promptly issue to the commissioner of state health services a proposal for a decision about the occurrence of the violation and the amount of a proposed penalty.

(k) Based on the findings of fact, conclusions of law, and proposal for a decision, the commissioner of state health services by order may:

(1) find that a violation occurred and impose a penalty; or

(2) find that a violation did not occur.

(l) The notice of the order under Subsection (k) that is sent to the person in accordance with Chapter 2001, Government Code, must include a statement of the right of the person to judicial review of the order.

Sec. 254.019. PAYMENT AND COLLECTION OF ADMINISTRATIVE PENALTY; JUDICIAL REVIEW. (a) Within 30 days after the date an order of the commissioner of state health services under Section 254.018(k) that imposes an administrative penalty becomes final, the person shall:

(1) pay the penalty; or

(2) file a petition for judicial review of the commissioner's order contesting the occurrence of the violation, the amount of the penalty, or both.

(b) Within the 30-day period prescribed by Subsection (a), a person who files a petition for judicial review may:

(1) stay enforcement of the penalty by:

(A) paying the penalty to the court for placement in an escrow account;

or

(B) giving the court a supersedeas bond approved by the court that:

(i) is for the amount of the penalty; and

(ii) is effective until all judicial review of the commissioner's order

is final; or

(2) request the court to stay enforcement of the penalty by:

(A) filing with the court a sworn affidavit of the person stating that the person is financially unable to pay the penalty and is financially unable to give the supersedeas bond; and

(B) sending a copy of the affidavit to the commissioner by certified mail.

(c) If the commissioner of state health services receives a copy of an affidavit under Subsection (b)(2), the commissioner may file with the court, within five days after the date the copy is received, a contest to the affidavit. The court shall hold a hearing on the facts alleged in the affidavit as soon as practicable and shall stay the enforcement of the penalty on finding that the alleged facts are true. The person who files an affidavit has the burden of proving that the person is financially unable to pay the penalty or to give a supersedeas bond.

(d) If the person does not pay the penalty and the enforcement of the penalty is not stayed, the penalty may be collected. The attorney general may sue to collect the penalty.

(e) If the court sustains the finding that a violation occurred, the court may uphold or reduce the amount of the penalty and order the person to pay the full or reduced amount of the penalty.

(f) If the court does not sustain the finding that a violation occurred, the court shall order that a penalty is not owed.

(g) If the person paid the penalty and if the amount of the penalty is reduced or the penalty is not upheld by the court, the court shall order, when the court's judgment becomes final, that the appropriate amount plus accrued interest be remitted to the person within 30 days after the date that the judgment of the court becomes final. The interest accrues at the rate charged on loans to depository institutions by the New York Federal Reserve Bank. The interest shall be paid for the period beginning on the date the penalty is paid and ending on the date the penalty is remitted.

(h) If the person gave a supersedeas bond and the penalty is not upheld by the court, the court shall order, when the court's judgment becomes final, the release of the bond. If the person gave a supersedeas bond and the amount of the penalty is reduced, the court shall order the release of the bond after the person pays the reduced amount.

SECTION __. (a) Not later than December 1, 2008, an independent emergency medical care facility must obtain a license as required by Chapter 254, Health and Safety Code, as added by this Act.

(b) Not later than September 1, 2008, the executive commissioner of the Health and Human Services Commission shall adopt rules as required by Chapter 254, Health and Safety Code, as added by this Act.

SECTION __. Notwithstanding any other provision of this Act, Sections 254.013 through 254.019, Health and Safety Code, as added by this Act, take effect December 1, 2008.

The amendment to **HB 3154** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2 except as follows:

Absent-excused: Gallegos.

Senator Uresti offered the following amendment to the bill:

Floor Amendment No. 3

Amend **HB 3154** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION __. (a) The Texas Health Care Policy Council, in coordination with the Institute for Demographic and Socioeconomic Research at The University of Texas at San Antonio, the Regional Center for Health Workforce Studies at the Center for Health Economics and Policy of The University of Texas Health Science Center at San Antonio, and the Texas Medical Board, shall conduct a study regarding increasing:

(1) the number of medical residency programs and medical residents in this state; and

(2) the number of physicians practicing medical specialties.

(b) The study must:

(1) examine the feasibility of using a percentage of physician licensing fees to increase the number of medical residency programs and medical residents in this state;

(2) put emphasis on, and recommend a plan of action for, increasing the number of:

(A) medical residency programs and medical residents in medically underserved areas of this state; and

(B) physicians practicing medical specialties that are underrepresented in this state; and

(3) determine the number of medical residents that obtain a license to practice medicine in this state on completion of a medical residency program in this state.

(c) Not later than December 1, 2008, the Texas Health Care Policy Council shall:

(1) report the results of the study to the governor, the lieutenant governor, and the speaker of the house of representatives; and

(2) make available the raw data from the study to the governor, the lieutenant governor, the speaker of the house of representatives, the House Committee on Public Health, and the Senate Committee on Health and Human Services.

(d) The Texas Health Care Policy Council may accept gifts, grants, and donations of any kind from any source for the purposes of this section.

(e) This Section expires January 1, 2009.

The amendment to **HB 3154** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 3 except as follows:

Absent-excused: Gallegos.

On motion of Senator Deuell and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 3154 as amended was passed to third reading by a viva voce vote.

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

Absent-excused: Gallegos.

HOUSE BILL 3154 ON THIRD READING

Senator Deuell moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3154** be placed on its third reading and final passage.

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

Absent-excused: Gallegos.

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

(Senator Eltife in Chair)

HOUSE BILL 1137 ON SECOND READING

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1137** at this time on its second reading:

HB 1137, Relating to eligibility and attendance requirements in public schools.

The bill was read second time.

Senator Zaffirini offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **HB 1137** (House engrossment printing) by inserting, on page 3, line 18, the following after "-":

"A student under the jurisdiction of a court in a criminal or juvenile justice proceeding may not receive credit under this subparagraph without the consent of the judge presiding over the student's case."

The amendment to **HB 1137** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Committee Amendment No. 1 except as follows:

Absent-excused: Gallegos.

Senator Zaffirini offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 1137** (House engrossment) between SECTIONS 1 and 2 of the bill (page 3, between lines 10 and 11), by inserting the following new SECTION, appropriately numbered, and renumbering the subsequent SECTIONS accordingly:

SECTION _____. Section 25.085(f), Education Code, as added by H.B. No. 566, Acts of the 80th Legislature, Regular Session, 2007, is amended to read as follows:

(f) The board of trustees of a school district may adopt a policy requiring a person described by Subsection (e) who is under 21 years of age to attend school until the end of the school year. Section 25.094 applies to a person subject to a policy adopted under this subsection. Sections 25.093 and 25.095 do not apply to the parent of a person subject to a policy adopted under this subsection.

The amendment to **HB 1137** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent-excused: Gallegos.

Senator Patrick offered the following amendment to the bill:

Floor Amendment No. 2

Amend **HB 1137** (Senate committee report) by inserting the following, on page 3 between lines 10 and 11:

(b-2) A person who is 21 years of age or older who is admitted by a school district to complete the requirements for a high school diploma and who has not attended school in the three preceding school years may not be placed with a student who is 18 years of age or younger in:

- (1) a classroom setting;
- (2) a cafeteria; or
- (3) another district-sanctioned school activity.

Nothing in this provision prevents a student described by this subsection from attending a school-sponsored event that is open to the public as a member of the public.

The amendment to **HB 1137** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2 except as follows:

Absent-excused: Gallegos.

Senator Watson offered the following amendment to the bill:

Floor Amendment No. 3

Amend **HB 1137** by adding the following SECTIONS, numbered appropriately, and by renumbering any subsequent SECTIONS accordingly:

SECTION __. Section 26.0081, Education Code, is amended by amending Subsection (a) and adding Subsections (a-1) and (d) to read as follows:

(a) The agency shall produce and provide to school districts sufficient copies of a comprehensive, easily understood document that explains the process by which an individualized education program is developed for a student in a special education program and the rights and responsibilities of a parent concerning the process. The document must include information a parent needs to effectively participate in an admission, review, and dismissal committee meeting for the parent's child. The agency shall routinely update the document so that the document includes current state and federal law and shall provide the updated version to school districts. On receipt of an updated document, a school district shall provide a copy of the document to the parent of a student enrolled in a special education program. The agency shall update the document not later than:

(1) the first anniversary of the effective date of a change in federal law under the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.) relating to the development or content of an individualized education program;

(2) the 180th day after the effective date of a change in federal regulations under the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.) relating to the development or content of an individualized education program; or

(3) the 180th day after the effective date of a change in state law or rules relating to the development or content of an individualized education program.

(a-1) If S.B. No. 1490, Acts of the 80th Legislature, Regular Session, 2007, takes effect before September 1, 2007, the agency shall adopt a new document under Subsection (a) and distribute the document to school districts not later than September 1, 2007, and a school district shall distribute the document to the parent of a child enrolled in a special education program not later than October 1, 2007. If S.B. No. 1490, Acts of the 80th Legislature, Regular Session, 2007, takes effect September 1, 2007, the agency shall adopt a new document under Subsection (a) and distribute the document to school districts not later than December 1, 2007, and a school district shall distribute the document to the parent of a child enrolled in a special education program not later than January 1, 2008. This subsection expires January 31, 2008.

(d) At the annual meeting of a student's admission, review, and dismissal committee, a school district must provide written notice to the parent of a student with an individualized education program that a current copy of the document required by this section is available to the parent on the request of the parent. A school district must also include the notice in the district's student handbook. If a school district maintains an Internet website, the district shall post on the website an Internet link for accessing the document on the agency's Internet website.

The amendment to **HB 1137** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 3 except as follows:

Absent-excused: Gallegos.

Senator Watson offered the following amendment to the bill:

Floor Amendment No. 4

Amend **HB 1137** by adding the following appropriately numbered SECTIONS and renumbering subsequent SECTIONS accordingly:

SECTION __. Section 52.01, Family Code, is amended by adding Subsection (e) to read as follows:

(e) A law-enforcement officer who has probable cause to believe that a child is in violation of the compulsory school attendance law under Section 25.085, Education Code, may take the child into custody for the purpose of returning the child to the school campus of the child to ensure the child's compliance with compulsory school attendance requirements.

SECTION __. Section 25.091, Education Code, is amended by adding Subsection (b-1) to read as follows:

(b-1) A peace officer who has probable cause to believe that a child is in violation of the compulsory school attendance law under Section 25.085 may take the child into custody for the purpose of returning the child to the school campus of the child to ensure the child's compliance with compulsory school attendance requirements.

The amendment to **HB 1137** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 4 except as follows:

Absent-excused: Gallegos.

Senator Van de Putte offered the following amendment to the bill:

Floor Amendment No. 5

Amend **HB 1137** by adding the following appropriately numbered SECTIONS and renumbering the subsequent SECTIONS accordingly:

SECTION __. Section 29.153(b), Education Code, is amended to read as follows:

(b) A child is eligible for enrollment in a prekindergarten class under this section if the child is at least three years of age and ~~is~~:

(1) is unable to speak and comprehend the English language;

(2) is educationally disadvantaged;

(3) is a homeless child, as defined by 42 U.S.C. Section 11434a ~~[41302]~~, regardless of the residence of the child, of either parent of the child, or of the child's guardian or other person having lawful control of the child;

(4) is the child of an active duty member of the armed forces of the United States, including the state military forces or a reserve component of the armed forces, who is ordered to active duty by proper authority; ~~[or]~~

(5) is the child of a member of the armed forces of the United States, including the state military forces or a reserve component of the armed forces, who was injured or killed while serving on active duty; or

(6) is or ever has been in the conservatorship of the Department of Family and Protective Services following an adversary hearing held as provided by Section 262.201, Family Code.

SECTION __. Section 29.153(b), Education Code, as amended by this Act, applies beginning with the 2007-2008 school year.

The amendment to **HB 1137** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 5 except as follows:

Absent-excused: Gallegos.

On motion of Senator Zaffirini and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 1137 as amended was passed to third reading by a viva voce vote.

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

Absent-excused: Gallegos.

HOUSE BILL 1137 ON THIRD READING

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1137** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Nichols.

Absent-excused: Gallegos.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 1. (Same as previous roll call)

HOUSE BILL 3314 ON SECOND READING

On motion of Senator Duncan and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 3314** at this time on its second reading:

HB 3314, Relating to administration, collection, and enforcement of state taxes; providing penalties.

The bill was read second time.

Senator Duncan offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 3314** (Senate committee printing) in SECTION 6 of the bill, in added Section 111.0611(b)(1), Tax Code (page 2, line 63), by striking "false or".

The amendment to **HB 3314** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent-excused: Gallegos.

Senator Williams offered the following amendment to the bill:

Floor Amendment No. 2

Amend **HB 3314** as follows:

(1) Add the following new SECTIONS:

SECTION 10. Subsection (b), Section 101.009, Tax Code, is amended to read as follows:

(b) Cigarette tax revenue allocated under Section 154.603(b) [~~of this code~~] shall be allocated as provided by Section 154.603, subject to Section 154.6035 [~~of this code~~]. Motor fuel tax revenue shall be allocated and deposited as provided by Subchapter F, Chapter 162 [~~of Chapter 153 of this code~~].

SECTION II. Subsection (g), Section 111.006, Tax Code, is amended to read as follows:

(g) Information made confidential by Subsection (a)(2) that relates to a taxpayer's responsibilities under Chapter 162 [~~153~~] may be examined by an official of another state or of the United States if:

(1) the official has information that would assist the comptroller in administering Chapter 162 [~~153~~];

(2) the comptroller is conducting or may conduct an examination or a criminal investigation of the taxpayer that is the subject of the information made confidential by Subsection (a)(2); and

(3) a reciprocal agreement exists allowing the comptroller to examine information under the control of the official in a manner substantially equivalent to the official's access to information under this subsection.

SECTION 12. Subsection (d), Section 111.060, Tax Code, is amended to read as follows:

(d) Subsection (c) does not apply to the taxes imposed by Chapters 152 and 211 or under an agreement made under Section 162.003 [~~153.017~~].

SECTION 13. Subsection (d), Section 111.064, Tax Code, is amended to read as follows:

(d) This section does not apply to an amount paid to the comptroller under Title 6, Property Code, or under an agreement made under Section 162.003 [~~153.017~~].

SECTION 14. Subsection (a), Section 111.107, Tax Code, is amended to read as follows:

(a) Except as otherwise expressly provided, a person may request a refund or a credit or the comptroller may make a refund or issue a credit for the overpayment of a tax imposed by this title at any time before the expiration of the period during which the comptroller may assess a deficiency for the tax and not thereafter unless the refund or credit is requested:

(1) under Subchapter B of Chapter 112 and the refund is made or the credit is issued under a court order;

(2) under the provision of Section 111.104(c)(3) applicable to a refund claim filed after a jeopardy or deficiency determination becomes final; or

(3) under Chapter 162 [~~153~~], except Section 162.126(f) [~~153.1195(e)~~], 162.128(d) [~~153.121(d)~~], 162.228(f) [~~153.2225(e)~~], or 162.230(d) [~~153.224(d)~~].

SECTION 15. Section 151.308, Tax Code, is amended to read as follows:

Sec. 151.308. ITEMS TAXED BY OTHER LAW. (a) The following are exempted from the taxes imposed by this chapter:

(1) oil as taxed by Chapter 202;

(2) sulphur as taxed by Chapter 203;

(3) motor fuels and special fuels as defined, taxed, or exempted by Chapter 162 [~~153~~];

(4) cement as taxed by Chapter 181;

(5) motor vehicles, trailers, and semitrailers as defined, taxed, or exempted by Chapter 152, other than a mobile office as defined by Section 152.001(16);

(6) mixed beverages, ice, or nonalcoholic beverages and the preparation or service of these items if the receipts are taxable by Chapter 183;

(7) alcoholic beverages when sold to the holder of a private club registration permit or to the agent or employee of the holder of a private club registration permit if the holder or agent or employee is acting as the agent of the members of the club and if the beverages are to be served on the premises of the club;

(8) oil well service as taxed by Subchapter E, Chapter 191; and

(9) insurance premiums subject to gross premiums taxes.

(b) Natural gas is exempted under Subsection (a)(3) only to the extent that the gas is taxed as a motor fuel under Chapter 162 [153].

SECTION 16. Subdivisions (9), (19), (20), (29), (31), (42), (43), and (55), Section 162.001, Tax Code, are amended to read as follows:

(9) "Blending" means the mixing together of one or more ~~[petroleum]~~ products with other products [another product], regardless of the original character of the product blended, that produces a product that is offered for sale, sold, or used as a motor fuel or [if the product obtained by the blending] is capable of use as fuel [in the generation of power] for the propulsion of a motor vehicle. The term does not include mixing that occurs in the process of refining by the original refiner of crude petroleum or the commingling of products during transportation in a pipeline.

(19) "Diesel fuel" means kerosene or another liquid, or a combination of liquids blended together, offered for sale, sold, [that is suitable for or] used, or capable of use as fuel for the propulsion of a diesel-powered engine [motor vehicles]. The term includes products commonly referred to as kerosene, light cycle oil, #1 diesel fuel, #2 diesel fuel, dyed or undyed diesel fuel, aviation jet fuel, biodiesel, distillate fuel, cutter stock, or heating oil, but does not include gasoline, aviation gasoline, or liquefied gas.

(20) "Distributor" means a person who ~~[acquires motor fuel from a licensed supplier, permissive supplier, or another licensed distributor and who]~~ makes sales of motor fuel at wholesale. A distributor's [and whose] activities may also include sales of motor fuel at retail.

(29) "Gasoline" means any liquid or combination of liquids blended together, offered for sale, sold, ~~[or]~~ used, or capable of use as [the] fuel for the propulsion of a gasoline-powered engine. The term includes gasohol, aviation gasoline, and blending agents, but does not include racing gasoline, diesel fuel, aviation jet fuel, or liquefied gas.

(31) "Gasoline blended fuel" means a mixture composed of gasoline and other liquids, including gasoline blend stocks, gasohol, ethanol, methanol, fuel grade alcohol, and resulting blends, other than a de minimus amount of a product such as carburetor detergent or oxidation inhibitor, that is offered for sale, sold, [can be] used, or is capable of use as fuel for a gasoline-powered engine [gasoline in a motor vehicle].

(42) "Motor fuel" means gasoline, diesel fuel, liquefied gas, gasoline blended fuel, and other products that are offered for sale, sold, ~~[can be]~~ used, or are capable of use as fuel for the propulsion of [to propel] a motor vehicle.

(43) "Motor fuel transporter" means a person who transports gasoline, diesel fuel, ~~[or]~~ gasoline blended fuel, or any other motor fuel, except liquefied gas, outside the bulk transfer/terminal system by means of a transport vehicle, a railroad tank car, or a marine vessel. The term does not include a person who:

(A) is licensed under this chapter as a supplier, permissive supplier, or distributor; and

(B) exclusively transports gasoline, diesel fuel, gasoline blended fuel, or any other motor fuel to which the person retains ownership while the fuel is being transported by the person.

(55) "Shipping document" means a delivery document issued [~~by a terminal or bulk plant operator~~] in conjunction with the sale, transfer, or transport [~~removal~~] of motor fuel [~~from the terminal or bulk plant~~]. A shipping document issued by a terminal operator shall be machine printed. All other [A] shipping documents [~~document issued by a bulk plant~~] shall be typed or handwritten on a preprinted form or machine printed.

SECTION 17. Section 162.004, Tax Code, is amended by amending Subsections (a) and (b) and adding Subsections (a-1) and (h) to read as follows:

(a) A person may not transport in this state any motor fuel by barge, vessel, railroad tank car, or transport vehicle unless the person has a shipping document for the motor fuel that complies with this section.

(a-1) A terminal operator or operator of a bulk plant shall give a shipping document to the person who operates the barge, vessel, railroad tank car, or transport vehicle into which motor fuel is loaded at the terminal rack or bulk plant rack.

(b) A [~~The~~] shipping document [~~issued by the terminal operator or operator of a bulk plant~~] shall contain the following information and any other information required by the comptroller:

(1) the terminal control number of the terminal or physical address of the bulk plant from which the motor fuel was received;

(2) the name [~~and license number~~] of the purchaser;

(3) the date the motor fuel was loaded;

(4) the net gallons loaded, or the gross gallons loaded if the fuel was purchased from a bulk plant;

(5) the destination state of the motor fuel, as represented by the purchaser of the motor fuel or the purchaser's agent; and

(6) a description of the product being transported.

(h) This section does not apply to motor fuel that is delivered into the fuel supply tank of a motor vehicle.

SECTION 18. Subsections (a), (b), (d), and (e), Section 162.016, Tax Code, are amended to read as follows:

(a) A person may not import motor fuel to a destination in this state or export motor fuel to a destination outside this state by any means unless the person possesses a shipping document for that fuel [~~created by the terminal or bulk plant at which the fuel was received~~]. The shipping document must include:

(1) the name and physical address of the terminal or bulk plant from which the motor fuel was received for import or export;

(2) the name [~~and federal employer identification number, or the social security number if the employer identification number is not available,~~] of the carrier transporting the motor fuel;

(3) the date the motor fuel was loaded;

(4) the type of motor fuel;

(5) the number of gallons:

(A) in temperature-adjusted gallons if purchased from a terminal for export or import; or

(B) in temperature-adjusted gallons or in gross gallons if purchased from a bulk plant;

(6) the destination of the motor fuel as represented by the purchaser of the motor fuel and the number of gallons of the fuel to be delivered, if delivery is to only one state;

(7) the name~~[, federal employer identification number, license number,]~~ and physical address of the purchaser of the motor fuel;

(8) the name of the person responsible for paying the tax imposed by this chapter, as given to the terminal by the purchaser if different from the licensed supplier or distributor; ~~and]~~

(9) the destination state of each portion of a split load of motor fuel if the motor fuel is to be delivered to more than one state; and

(10) any other information that, in the opinion of the comptroller, is necessary for the proper administration of this chapter.

(b) The ~~[terminal or bulk plant shall provide the]~~ shipping documents shall be provided to the importer or exporter.

(d) A seller, transporter, or receiver of ~~[terminal, a bulk plant, the carrier, the licensed distributor or supplier, and the person that received the]~~ motor fuel shall:

(1) retain a copy of the shipping document until at least the fourth anniversary of the date the fuel is received; and

(2) provide a copy of the document to the comptroller or any law enforcement officer not later than the 10th working day after the date a request for the copy is received.

(e) An importer or exporter shall keep in the person's possession the shipping document ~~[issued by the terminal or bulk plant]~~ when transporting motor fuel imported into this state or for export from this state. The importer or exporter shall show the document to the comptroller or a peace officer on request. The comptroller may delegate authority to inspect the document to other governmental agencies. The importer or exporter shall provide a copy of the shipping document to the person that receives the fuel when it is delivered.

SECTION 19. Subsections (a) through (e), Section 162.101, Tax Code, are amended to read as follows:

(a) A tax is imposed on the removal of gasoline from the terminal using the terminal rack, other than by bulk transfer. The supplier or permissive supplier is liable for and shall collect the tax imposed by this subchapter from the person who orders the withdrawal at the terminal rack.

(b) A tax is imposed at the time gasoline is imported into this state, other than by a bulk transfer, for delivery to a destination in this state. The supplier or permissive supplier is liable for and shall collect the tax imposed by this subchapter from the person who imports the gasoline into this state. If the seller is not a supplier or permissive supplier, then the person who imports the gasoline into this state is liable for and shall pay the tax.

(c) A tax is imposed on the removal ~~[sale or transfer]~~ of gasoline from ~~[it]~~ the bulk transfer/terminal system in this state ~~[by a supplier to a person who does not hold a supplier's license]~~. The supplier is liable for and shall collect the tax imposed by this subchapter from the person who orders the removal from ~~[sale or transfer in]~~ the bulk transfer terminal system.

(d) A tax is imposed on gasoline brought into this state in a motor fuel supply tank or tanks of a motor vehicle operated by a person required to be licensed as an interstate trucker. The interstate trucker is liable for and shall pay the tax.

(e) A tax is imposed on the blending of gasoline at the point gasoline blended fuel is made in this state outside the bulk transfer/terminal system. The blender is liable for and shall pay the tax. The number of gallons of gasoline blended fuel on which the tax is imposed is equal to the difference between the number of gallons of blended fuel made and the number of gallons of previously taxed gasoline used to make the blended fuel.

SECTION 20. Subsection (d), Section 162.103, Tax Code, is amended to read as follows:

(d) A person who sells gasoline in this state, other than by a bulk transfer, on which tax has not been paid for any purpose other than a purpose exempt under Section 162.104 shall at the time of sale collect the tax from the purchaser or recipient of gasoline in addition to the selling price and is liable to this state for the taxes imposed ~~[collected at the time and]~~ in the manner provided by this chapter.

SECTION 21. Subsections (a) and (f), Section 162.104, Tax Code, are amended to read as follows:

(a) The tax imposed by this subchapter does not apply to gasoline:

(1) sold to the United States for its exclusive use, provided that the exemption does not apply with respect to fuel sold or delivered to a person operating under a contract with the United States;

(2) sold to a public school district in this state for the district's exclusive use;

(3) sold to a commercial transportation company that provides public school transportation services to a school district under Section 34.008, Education Code, and that uses the gasoline only to provide those services;

(4) exported by either a licensed supplier or a licensed exporter from this state to any other state, provided that:

(A) for gasoline in a situation described by Subsection (d), the bill of lading indicates the destination state and the supplier collects the destination state tax; or

(B) for gasoline in a situation described by Subsection (e), the bill of lading indicates the destination state, the gasoline is subsequently exported, and the exporter is licensed in the destination state to pay that state's tax and has an exporter's license issued under this subchapter;

(5) moved by truck or railcar between licensed suppliers or licensed permissive suppliers and in which the gasoline removed from the first terminal comes to rest in the second terminal, provided that the removal from the second terminal rack is subject to the tax imposed by this subchapter;

(6) that is:

(A) aviation gasoline sold by a licensed supplier, permissive supplier, or distributor to another licensed supplier, permissive supplier, or distributor, provided that the aviation gasoline will be delivered solely into the fuel supply tanks of aircraft or aircraft servicing equipment;

(B) aviation gasoline or gasoline sold by a supplier, permissive supplier, or distributor into a storage facility of a licensed aviation fuel dealer; or

(C) aviation gasoline or gasoline [delivered or sold into a storage facility of a licensed aviation fuel dealer from which gasoline will be delivered solely into the fuel supply tanks of aircraft or aircraft servicing equipment, or] sold from one licensed aviation fuel dealer to another licensed aviation fuel dealer [who will deliver the aviation fuel exclusively into the fuel supply tanks of aircraft or aircraft servicing equipment]; or

(7) exported to a foreign country if the bill of lading indicates the foreign destination and the fuel is actually exported to the foreign country.

(f) The exemption provided by Subsection (a)(4)(A) does not apply to a sale by a distributor, unless:

(1) the sale is to a licensed exporter;

(2) the supplier collects the destination state tax from the distributor;

(3) the distributor collects the destination state tax from the exporter; and

(4) the contract for the sale is signed before the gasoline is removed from the terminal.

SECTION 22. Subsections (b) and (c), Section 162.112, Tax Code, are amended to read as follows:

(b) A licensed supplier, ~~[or]~~ permissive supplier, or distributor who sells gasoline tax-free to a person whose supplier's, ~~[or]~~ permissive supplier's, or aviation fuel dealer's license has been canceled or revoked under this chapter is liable for any tax due on gasoline sold after receiving notice of the cancellation or revocation.

(c) The comptroller shall notify all license holders under this chapter when a canceled or revoked license is subsequently reinstated and include in the notice the effective date of the reinstatement. Sales to the supplier, ~~[or]~~ permissive supplier, or aviation fuel dealer after the effective date of the reinstatement may be made tax-free.

SECTION 23. Section 162.115, Tax Code, is amended by adding Subsection (n) to read as follows:

(n) In addition to the records specifically required by this section, a license holder shall keep any other record required by the comptroller.

SECTION 24. Subsection (a), Section 162.116, Tax Code, is amended to read as follows:

(a) The monthly return and supplements of each supplier and permissive supplier shall contain for the period covered by the return:

(1) ~~[the number of net gallons of gasoline received by the supplier or permissive supplier during the month, sorted by product code, seller, point of origin, destination state, carrier, and receipt date;~~

~~[(2)]~~ the number of net gallons of gasoline removed at a terminal rack during the month from the account of the supplier, sorted by product code, person receiving the gasoline, terminal code, and carrier;

(2) ~~(3)~~ the number of net gallons of gasoline removed during the month for export, sorted by product code, person receiving the gasoline, terminal code, destination state, and carrier;

(3) ~~(4)~~ the number of net gallons of gasoline removed during the month from a terminal located in another state for conveyance to this state, as indicated on the shipping document for the gasoline, sorted by product code, person receiving the gasoline, terminal code, and carrier;

(4) ~~(5)~~ the number of net gallons of gasoline the supplier or permissive supplier sold during the month in transactions exempt under Section 162.104, sorted by product code and ~~carrier,~~ purchaser ~~and terminal code;~~

~~(6) the number of net gallons of gasoline sold in the bulk transfer/terminal system in this state to any person not holding a supplier's or permissive supplier's license]; and~~

(5) ~~(7)~~ any other information required by the comptroller.

SECTION 25. Section 162.118, Tax Code, is amended to read as follows:

Sec. 162.118. INFORMATION REQUIRED ON DISTRIBUTOR'S RETURN.

The monthly return and supplements of each distributor shall contain for the period covered by the return:

(1) the number of net gallons of gasoline received by the distributor during the month, sorted by product code and ~~seller,~~ ~~point of origin, destination state, carrier, and receipt date];~~

(2) the number of net gallons of gasoline removed at a terminal rack by the distributor during the month, sorted by product code, seller, and terminal code ~~and carrier];~~

(3) the number of net gallons of gasoline removed by the distributor during the month for export, sorted by product code, terminal code, bulk plant address, destination state, and carrier;

(4) the number of net gallons of gasoline removed by the distributor during the month from a terminal located in another state for conveyance to this state, as indicated on the shipping document for the gasoline, sorted by product code, seller, terminal code, bulk plant address, and carrier;

(5) the number of net gallons of gasoline the distributor sold during the month in transactions exempt under Section 162.104, sorted by product code and purchaser; and

(6) any other information required by the comptroller.

SECTION 26. Section 162.125, Tax Code, is amended by adding Subsection (j) to read as follows:

(j) A license holder may take a credit on a return for the tax included in the retail purchase price of gasoline for the period in which the purchase occurred when made by one of the following purchasers, if the purchase was made by acceptance of a credit card not issued by the license holder, the credit card issuer did not collect the tax from the purchaser, and the license holder reimbursed the credit card issuer for the amount of tax included in the retail purchase price:

(1) the United States government for its exclusive use;

(2) a public school district in this state for the district's exclusive use;

(3) a commercial transportation company that provides public school transportation services to a public school district under Section 34.008, Education Code, for its exclusive use to provide those services;

(4) a nonprofit electric cooperative corporation organized under Chapter 161, Utilities Code; and

(5) a nonprofit telephone cooperative corporation organized under Chapter 162, Utilities Code.

SECTION 27. Subsection (d), Section 162.128, Tax Code, is amended to read as follows:

(d) A supplier, ~~or~~ permissive supplier, distributor, importer, exporter, or blender that determines taxes were erroneously reported and remitted or that paid more taxes than were due this state because of a mistake of fact or law may take a credit on the monthly tax report on which the error has occurred and tax payment made to the comptroller. The credit must be taken before the expiration of the applicable period of limitation as provided by Chapter 111.

SECTION 28. Subsections (a) through (e), Section 162.201, Tax Code, are amended to read as follows:

(a) A tax is imposed on the removal of diesel fuel from the terminal using the terminal rack other than by bulk transfer. The supplier or permissive supplier is liable for and shall collect the tax imposed by this subchapter from the person who orders the withdrawal at the terminal rack.

(b) A tax is imposed at the time diesel fuel is imported into this state, other than by a bulk transfer, for delivery to a destination in this state. The supplier or permissive supplier is liable for and shall collect the tax imposed by this subchapter from the person who imports the diesel fuel into this state. If the seller is not a supplier or permissive supplier, the person who imports the diesel fuel into this state is liable for and shall pay the tax.

(c) A tax is imposed on the removal ~~[sale or transfer]~~ of diesel fuel from ~~[in]~~ the bulk transfer/terminal system in this state ~~[by a supplier to a person who does not hold a supplier's license]~~. The supplier is liable for and shall collect the tax imposed by this subchapter from the person who orders the removal from ~~[sale or transfer in]~~ the bulk transfer/terminal system.

(d) A tax is imposed on diesel fuel brought into this state in the motor fuel supply tank or tanks of a motor vehicle operated by a person required to be licensed as an interstate trucker. The interstate trucker is liable for and shall pay the tax.

(e) A tax is imposed on the blending of diesel fuel at the point blended diesel fuel is made in this state outside the bulk transfer/terminal system. The blender is liable for and shall pay the tax. The number of gallons of blended diesel fuel on which the tax is imposed is equal to the difference between the number of gallons of blended fuel made and the number of gallons of previously taxed diesel fuel used to make the blended fuel.

SECTION 29. Subsection (d), Section 162.203, Tax Code, is amended to read as follows:

(d) A person who sells diesel fuel in this state, other than by a bulk transfer, on which tax has not been paid for any purpose other than a purpose exempt under Section 162.204 shall at the time of sale collect the tax from the purchaser or recipient of diesel fuel in addition to the selling price and is liable to this state for the taxes imposed [collected at the time and] in the manner provided by this chapter.

SECTION 30. Subsections (a) and (f), Section 162.204, Tax Code, are amended to read as follows:

(a) The tax imposed by this subchapter does not apply to:

(1) diesel fuel sold to the United States for its exclusive use, provided that the exemption does not apply to diesel fuel sold or delivered to a person operating under a contract with the United States;

(2) diesel fuel sold to a public school district in this state for the district's exclusive use;

(3) diesel fuel sold to a commercial transportation company that provides public school transportation services to a school district under Section 34.008, Education Code, and that uses the diesel fuel only to provide those services;

(4) diesel fuel exported by either a licensed supplier or a licensed exporter from this state to any other state, provided that:

(A) for diesel fuel in a situation described by Subsection (d), the bill of lading indicates the destination state and the supplier collects the destination state tax; or

(B) for diesel fuel in a situation described by Subsection (e), the bill of lading indicates the destination state, the diesel fuel is subsequently exported, and the exporter is licensed in the destination state to pay that state's tax and has an exporter's license issued under this subchapter;

(5) diesel fuel moved by truck or railcar between licensed suppliers or licensed permissive suppliers and in which the diesel fuel removed from the first terminal comes to rest in the second terminal, provided that the removal from the second terminal rack is subject to the tax imposed by this subchapter;

(6) that is:

(A) aviation jet fuel sold by a licensed supplier, permissive supplier, or distributor to another licensed supplier, permissive supplier, or distributor, provided that the aviation jet fuel will be delivered solely into the fuel supply tanks of aircraft or aircraft servicing equipment;

(B) aviation jet fuel or diesel fuel sold by a supplier, permissive supplier, or distributor into a storage facility of a licensed aviation fuel dealer; or

(C) aviation jet fuel or diesel fuel [diesel fuel delivered or sold into a storage facility of a licensed aviation fuel dealer from which the diesel fuel will be delivered solely into the fuel supply tanks of aircraft or aircraft servicing equipment, or] sold from one licensed aviation fuel dealer to another licensed aviation fuel dealer [who will deliver the diesel fuel exclusively into the fuel supply tanks of aircraft or aircraft servicing equipment];

(7) diesel fuel exported to a foreign country if the bill of lading indicates the foreign destination and the fuel is actually exported to the foreign country;

(8) dyed diesel fuel sold or delivered by a supplier to another supplier and dyed diesel fuel sold or delivered by a supplier or distributor into the bulk storage facility of a dyed diesel fuel bonded user or to a purchaser who provides a signed statement as provided by Section 162.206;

(9) the volume of water, fuel ethanol, biodiesel, or mixtures thereof that are blended together with taxable diesel fuel when the finished product sold or used is clearly identified on the retail pump, storage tank, and sales invoice as a combination of diesel fuel and water, fuel ethanol, biodiesel, or mixtures thereof;

(10) dyed diesel fuel sold by a supplier or permissive supplier to a distributor, or by a distributor to another distributor;

(11) dyed diesel fuel delivered by a license holder into the fuel supply tanks of railway engines, motorboats, or refrigeration units or other stationary equipment powered by a separate motor from a separate fuel supply tank;

(12) dyed kerosene when delivered by a supplier, distributor, or importer into a storage facility at a retail business from which all deliveries are exclusively for heating, cooking, lighting, or similar nonhighway use; or

(13) diesel fuel used by a person, other than a political subdivision, who owns, controls, operates, or manages a commercial motor vehicle as defined by Section 548.001, Transportation Code, if the fuel:

(A) is delivered exclusively into the fuel supply tank of the commercial motor vehicle; and

(B) is used exclusively to transport passengers for compensation or hire between points in this state on a fixed route or schedule.

(f) The exemption provided by Subsection (a)(4)(A) does not apply to a sale by a distributor, unless:

(1) the sale is to a licensed exporter;

(2) the supplier collects the destination state tax from the distributor;

(3) the distributor collects the destination state tax from the exporter; and

(4) the contract for the sale is signed before the diesel fuel is removed from the terminal.

SECTION 31. Section 162.206, Tax Code, is amended by amending Subsection (c) and adding Subsections (c-1), (g-1), and (k) to read as follows:

(c) A person may not make a tax-free purchase and a licensed supplier or distributor may not make a tax-free sale to a purchaser of any dyed diesel fuel under this section using a signed statement for the first sale or purchase and for any subsequent sale or purchase[;

~~[(1) for the purchase or the sale of more than 7,400 gallons of dyed diesel fuel in a single delivery; or~~

~~[(2)] in a calendar month for [in which the person has previously purchased from all sources or in which the licensed supplier has previously sold to that purchaser] more than:~~

~~(1) [(A)] 10,000 gallons of dyed diesel fuel;~~

~~(2) [(B)] 25,000 gallons of dyed diesel fuel if the purchaser stipulates in the signed statement that all of the fuel will be consumed by the purchaser in the original production of, or to increase the production of, oil or gas and furnishes the supplier with a letter of exception issued by the comptroller; or~~

(3) [(€)] 25,000 gallons of dyed diesel fuel if the purchaser stipulates in the signed statement that all of the fuel will be consumed by the purchaser in agricultural off-highway equipment.

(c-1) The monthly limitations prescribed by Subsection (c) apply regardless of whether the dyed diesel fuel is purchased in a single transaction during that month or in multiple transactions during that month.

(g-1) For purposes of this section, the purchaser is considered to have temporarily furnished the signed statement to the licensed supplier or distributor if the supplier or distributor verifies that the purchaser has an end user number issued by the comptroller. The licensed supplier or distributor shall use the comptroller's Internet website or other materials provided or produced by the comptroller to verify this information until the purchaser provides to the supplier or distributor a completed signed statement.

(k) Properly completed signed statements should be in the possession of the licensed supplier or distributor at the time the sale of dyed diesel fuel occurs. If the licensed supplier or distributor is not in possession of the signed statements within 60 days after the date written notice requiring possession of them is given to the licensed supplier or distributor by the comptroller, exempt sales claimed by the licensed supplier or distributor that require delivery of the signed statements shall be disallowed. If the licensed supplier or distributor delivers the signed statements to the comptroller within the 60-day period, the comptroller may verify the reason or basis for the signed statements before allowing the exempt sales. An exempt sale may not be granted on the basis of signed statements delivered to the comptroller after the 60-day period.

SECTION 32. Subsections (b) and (c), Section 162.213, Tax Code, are amended to read as follows:

(b) A licensed supplier or permissive supplier who sells diesel fuel tax-free to a supplier, ~~per~~ permissive supplier, or aviation fuel dealer whose license has been canceled or revoked under this chapter, or who sells dyed diesel fuel to a distributor or dyed diesel fuel bonded user whose license has been canceled or revoked under this chapter, is liable for any tax due on diesel fuel sold after receiving notice of the cancellation or revocation.

(c) The comptroller shall notify all license holders under this chapter when a canceled or revoked license is subsequently reinstated and include in the notice the effective date of the reinstatement. Sales to a supplier, permissive supplier, distributor, aviation fuel dealer, or dyed diesel fuel bonded user after the effective date of the reinstatement may be made tax-free.

SECTION 33. Section 162.216, Tax Code, is amended by adding Subsection (o) to read as follows:

(o) In addition to the records specifically required by this section, a license holder shall keep any other record required by the comptroller.

SECTION 34. Subsection (a), Section 162.217, Tax Code, is amended to read as follows:

(a) The monthly return and supplements of each supplier and permissive supplier shall contain for the period covered by the return:

(1) ~~[the number of net gallons of diesel fuel received by the supplier or permissive supplier during the month, sorted by product code, seller, point of origin, destination state, carrier, and receipt date;~~

~~[(2)]~~ the number of net gallons of diesel fuel removed at a terminal rack during the month from the account of the supplier, sorted by product code, person receiving the diesel fuel, terminal code, and carrier;

~~(2)~~ ~~[(3)]~~ the number of net gallons of diesel fuel removed during the month for export, sorted by product code, person receiving the diesel fuel, terminal code, destination state, and carrier;

~~(3)~~ ~~[(4)]~~ the number of net gallons of diesel fuel removed during the month from a terminal located in another state for conveyance to this state, as indicated on the shipping document for the diesel fuel, sorted by product code, person receiving the diesel fuel, terminal code, and carrier;

~~(4)~~ ~~[(5)]~~ the number of net gallons of diesel fuel the supplier or permissive supplier sold during the month in transactions exempt under Section 162.204, sorted by product code and ~~[carrier,]~~ purchaser ~~[and terminal code];~~

~~[(6)]~~ ~~the number of net gallons of diesel fuel sold in the bulk transfer/terminal system in this state to any person not holding a supplier's or permissive supplier's license]; and~~

~~(5)~~ ~~[(7)]~~ any other information required by the comptroller.

SECTION 35. Section 162.219, Tax Code, is amended to read as follows:

Sec. 162.219. INFORMATION REQUIRED ON DISTRIBUTOR'S RETURN.

The monthly return and supplements of each distributor shall contain for the period covered by the return:

(1) the number of net gallons of diesel fuel received by the distributor during the month, sorted by product code and ~~[seller, point of origin, destination state, carrier, and receipt date];~~

(2) the number of net gallons of diesel fuel removed at a terminal rack by the distributor during the month, sorted by product code, seller, and terminal code ~~[and carrier];~~

(3) the number of net gallons of diesel fuel removed by the distributor during the month for export, sorted by product code, terminal code, bulk plant address, destination state, and carrier;

(4) the number of net gallons of diesel fuel removed by the distributor during the month from a terminal located in another state for conveyance to this state, as indicated on the shipping document for the diesel fuel, sorted by product code, seller, terminal code, bulk plant address, and carrier;

(5) the number of net gallons of diesel fuel the distributor sold during the month in transactions exempt under Section 162.204, sorted by product code and by the entity receiving the diesel fuel;

(6) the number of net gallons of ~~[dye]~~ dyed diesel fuel sold to a purchaser under a signed statement ~~[or dyed diesel fuel sold to a dyed diesel fuel bonded user, sorted by product code and by the entity receiving the diesel fuel; and~~

~~(7)~~ ~~[(6)]~~ any other information required by the comptroller.

SECTION 36. Section 162.227, Tax Code, is amended by adding Subsection (j) to read as follows:

(j) A license holder may take a credit on a return for the tax included in the retail purchase price of diesel fuel for the period in which the purchase occurred when made by one of the following purchasers, if the purchase was made by acceptance of a credit card not issued by the license holder, the credit card issuer did not collect the tax from the purchaser, and the license holder reimbursed the credit card issuer for the amount of tax included in the retail purchase price:

(1) the United States government for its exclusive use;

(2) a public school district in this state for the district's exclusive use;

(3) a commercial transportation company that provides public school transportation services to a public school district under Section 34.008, Education Code, for its exclusive use to provide those services;

(4) a nonprofit electric cooperative corporation organized under Chapter 161, Utilities Code; or

(5) a nonprofit telephone cooperative corporation organized under Chapter 162, Utilities Code.

SECTION 37. Subsection (d), Section 162.230, Tax Code, is amended to read as follows:

(d) A supplier, ~~permissive~~ supplier, distributor, importer, exporter, or blender that determines taxes were erroneously reported and remitted or that paid more taxes than were due to this state because of a mistake of fact or law may take a credit on the monthly tax report on which the error has occurred and tax payment made to the comptroller. The credit must be taken before the expiration of the applicable period of limitation as provided by Chapter 111.

SECTION 38. Subsections (a) and (d), Section 162.402, Tax Code, are amended to read as follows:

(a) A person forfeits to the state a civil penalty of not less than \$25 and not more than \$200 if the person:

(1) refuses to stop and permit the inspection and examination of a motor vehicle transporting or using motor fuel on demand of a peace officer or the comptroller;

(2) operates a motor vehicle in this state without a valid interstate trucker's license or a trip permit when the person is required to hold one of those licenses or permits;

(3) operates a liquefied gas-propelled motor vehicle that is required to be licensed in this state, including motor vehicles equipped with dual carburetion, and does not display a current liquefied gas tax decal or multistate fuels tax agreement decal;

(4) makes a tax-free sale or delivery of liquefied gas into the fuel supply tank of a motor vehicle that does not display a current Texas liquefied gas tax decal;

(5) makes a taxable sale or delivery of liquefied gas without holding a valid dealer's license;

(6) makes a tax-free sale or delivery of liquefied gas into the fuel supply tank of a motor vehicle bearing out-of-state license plates;

(7) makes a delivery of liquefied gas into the fuel supply tank of a motor vehicle bearing Texas license plates and no Texas liquefied gas tax decal, unless licensed under a multistate fuels tax agreement;

(8) transports gasoline or diesel fuel in any cargo tank that has a connection by pipe, tube, valve, or otherwise with the fuel injector or carburetor of, or with the fuel supply tank feeding the fuel injector or carburetor of, the motor vehicle transporting the product;

(9) sells or delivers gasoline or diesel fuel from any fuel supply tank connected with the fuel injector or carburetor of a motor vehicle;

(10) owns or operates a motor vehicle for which reports or mileage records are required by this chapter without an operating odometer or other device in good working condition to record accurately the miles traveled;

(11) furnishes to a supplier a signed statement for purchasing diesel fuel tax-free and then uses the tax-free diesel fuel to operate a diesel-powered motor vehicle on a public highway;

(12) fails or refuses to comply with or violates a provision of this chapter;

(13) fails or refuses to comply with or violates a comptroller's rule for administering or enforcing this chapter; or

(14) ~~[is an importer who does not obtain an import verification number when required by this chapter; or~~

~~[(15)]~~ purchases motor fuel for export, on which the tax imposed by this chapter has not been paid, and subsequently diverts or causes the motor fuel to be diverted to a destination in this state or any other state or country other than the originally designated state or country without first obtaining a diversion number.

(d) A person ~~[operating a bulk plant or terminal]~~ who issues a shipping document that does not conform with the requirements of Section 162.016(a) is liable to this state for a civil penalty of \$2,000 or five times the amount of the unpaid tax, whichever is greater, for each occurrence.

SECTION 39. Section 162.403, Tax Code, is amended to read as follows:

Sec. 162.403. CRIMINAL OFFENSES. Except as provided by Section 162.404, a person commits an offense if the person:

(1) refuses to stop and permit the inspection and examination of a motor vehicle transporting or using motor fuel on the demand of a peace officer or the comptroller;

(2) is required to hold a valid trip permit or interstate trucker's license, but operates a motor vehicle in this state without a valid trip permit or interstate trucker's license;

(3) operates a liquefied gas-propelled motor vehicle that is required to be licensed in this state, including a motor vehicle equipped with dual carburetion, and does not display a current liquefied gas tax decal or multistate fuels tax agreement decal;

(4) transports gasoline or diesel fuel in any cargo tank that has a connection by pipe, tube, valve, or otherwise with the fuel injector or carburetor or with the fuel supply tank feeding the fuel injector or carburetor of the motor vehicle transporting the product;

(5) sells or delivers gasoline or diesel fuel from a fuel supply tank that is connected with the fuel injector or carburetor of a motor vehicle;

(6) owns or operates a motor vehicle for which reports or mileage records are required by this chapter without an operating odometer or other device in good working condition to record accurately the miles traveled;

(7) sells or delivers dyed diesel fuel for the operation of a motor vehicle on a public highway;

(8) uses dyed diesel fuel for the operation of a motor vehicle on a public highway except as allowed under Section 162.235;

(9) makes a tax-free sale or delivery of liquefied gas into the fuel supply tank of a motor vehicle that does not display a current Texas liquefied gas tax decal;

(10) makes a sale or delivery of liquefied gas on which the person knows the tax is required to be collected, if at the time the sale is made the person does not hold a valid dealer's license;

(11) makes a tax-free sale or delivery of liquefied gas into the fuel supply tank of a motor vehicle bearing out-of-state license plates;

(12) makes a delivery of liquefied gas into the fuel supply tank of a motor vehicle bearing Texas license plates and no Texas liquefied gas tax decal, unless licensed under a multistate fuels tax agreement;

(13) refuses to permit the comptroller or the attorney general to inspect, examine, or audit a book or record required to be kept by a license holder, other user, or any person required to hold a license under this chapter;

(14) refuses to permit the comptroller or the attorney general to inspect or examine any plant, equipment, materials, or premises where motor fuel is produced, processed, blended, stored, sold, delivered, or used;

(15) refuses to permit the comptroller, the attorney general, an employee of either of those officials, a peace officer, an employee of the Texas Commission on Environmental Quality, or an employee of the Department of Agriculture to measure or gauge the contents of or take samples from a storage tank or container on premises where motor fuel is produced, processed, blended, stored, sold, delivered, or used;

(16) is a license holder, a person required to be licensed, or another user and fails or refuses to make or deliver to the comptroller a report required by this chapter to be made and delivered to the comptroller;

(17) ~~is an importer who does not obtain an import verification number when required by this chapter;~~

~~(18)~~ purchases motor fuel for export, on which the tax imposed by this chapter has not been paid, and subsequently diverts or causes the motor fuel to be diverted to a destination in this state or any other state or country other than the originally designated state or country without first obtaining a diversion number;

(18) ~~(19)~~ conceals motor fuel with the intent of engaging in any conduct proscribed by this chapter or refuses to make sales of motor fuel on the volume-corrected basis prescribed by this chapter;

(19) ~~(20)~~ refuses, while transporting motor fuel, to stop the motor vehicle the person is operating when called on to do so by a person authorized to stop the motor vehicle;

(20) ~~(21)~~ refuses to surrender a motor vehicle and cargo for impoundment after being ordered to do so by a person authorized to impound the motor vehicle and cargo;

(21) [~~(22)~~] mutilates, destroys, or secretes a book or record required by this chapter to be kept by a license holder, other user, or person required to hold a license under this chapter;

(22) [~~(23)~~] is a license holder, other user, or other person required to hold a license under this chapter, or the agent or employee of one of those persons, and makes a false entry or fails to make an entry in the books and records required under this chapter to be made by the person or fails to retain a document as required by this chapter;

(23) [~~(24)~~] transports in any manner motor fuel under a false cargo manifest or shipping document, or transports in any manner motor fuel to a location without delivering at the same time a shipping document relating to that shipment;

(24) [~~(25)~~] engages in a motor fuel transaction that requires that the person have a license under this chapter without then and there holding the required license;

(25) [~~(26)~~] makes and delivers to the comptroller a report required under this chapter to be made and delivered to the comptroller, if the report contains false information;

(26) [~~(27)~~] forges, falsifies, or alters an invoice prescribed by law;

(27) [~~(28)~~] makes any statement, knowing said statement to be false, in a claim for a tax refund filed with the comptroller;

(28) [~~(29)~~] furnishes to a supplier a signed statement for purchasing diesel fuel tax-free and then uses the tax-free diesel fuel to operate a diesel-powered motor vehicle on a public highway;

(29) [~~(30)~~] holds an aviation fuel dealer's license and makes a taxable sale or use of any gasoline or diesel fuel;

(30) [~~(31)~~] fails to remit any tax funds collected by a license holder, another user, or any other person required to hold a license under this chapter;

(31) [~~(32)~~] makes a sale of dyled diesel fuel tax-free into a storage facility of a person who:

(A) is not licensed as a distributor, as an aviation fuel dealer, or as a dyled diesel fuel bonded user; or

(B) does not furnish to the licensed supplier or distributor a signed statement prescribed in Section 162.206;

(32) [~~(33)~~] makes a sale of gasoline tax-free to any person who is not licensed as an aviation fuel dealer;

(33) [~~(34)~~] is a dealer who purchases any motor fuel tax-free when not authorized to make a tax-free purchase under this chapter;

(34) [~~(35)~~] is a dealer who purchases motor fuel with the intent to evade any tax imposed by this chapter or who accepts a delivery of motor fuel by any means and does not at the same time accept or receive a shipping document relating to the delivery;

(35) [~~(36)~~] transports motor fuel for which a cargo manifest or shipping document is required to be carried without possessing or exhibiting on demand by an officer authorized to make the demand a cargo manifest or shipping document containing the information required to be shown on the manifest or shipping document;

(36) ~~(37)~~ imports, sells, uses, blends, distributes, or stores motor fuel within this state on which the taxes imposed by this chapter are owed but have not been first paid to or reported by a license holder, another user, or any other person required to hold a license under this chapter;

(37) ~~(38)~~ blends products together to produce a blended fuel that is offered for sale, sold, or used and that expands the volume of the original product to evade paying applicable motor fuel taxes; or

(38) ~~(39)~~ evades or attempts to evade in any manner a tax imposed on motor fuel by this chapter.

SECTION 40. Subsections (c) and (d), Section 162.404, Tax Code, are amended to read as follows:

(c) The prohibition under Section 162.403(31) ~~[162.403(32)]~~ does not apply to the tax-free sale or distribution of diesel fuel authorized by Section 162.204(a)(1) ~~[162.204(1)]~~, (2), or (3).

(d) The prohibition under Section 162.403(32) ~~[162.403(33)]~~ does not apply to the tax-free sale or distribution of gasoline under Section 162.104(a)(1) ~~[162.104(1)]~~, (2), or (3).

SECTION 41. Subsections (b) through (f), Section 162.405, Tax Code, are amended to read as follows:

(b) An offense under Section 162.403(9), (10), (11), (12), (13), (14), (15), (16), or (17) ~~[or (18)]~~ is a Class B misdemeanor.

(c) An offense under Section 162.403(18), (19), or ~~[162.403(19)]~~ (20) ~~[or (21)]~~ is a Class A misdemeanor.

(d) An offense under Section 162.403(7), (21), (22), (23), (24), (25), (26), (27), or (28) ~~[or (29)]~~ is a felony of the third degree.

(e) An offense under Section 162.403(29), (30) ~~[162.403(30)]~~, (31), (32), (33), (34), (35), (36), (37), or (38) ~~[or (39)]~~ is a felony of the second degree.

(f) Violations of three or more separate offenses under Sections 162.403(21) ~~[162.403(22)]~~ through (28) ~~[(29)]~~ committed pursuant to one scheme or continuous course of conduct may be considered as one offense and punished as a felony of the second degree.

SECTION 42. The heading to Section 162.409, Tax Code, is amended to read as follows:

Sec. 162.409. ISSUANCE OF BAD CHECK TO LICENSED DISTRIBUTOR,
~~[OR]~~ LICENSED SUPPLIER, OR PERMISSIVE SUPPLIER.

SECTION 43. Subsections (a) and (d), Section 162.409, Tax Code, are amended to read as follows:

(a) A person commits an offense if:

(1) the person issues or passes a check or similar sight order for the payment of money knowing that the issuer does not have sufficient funds in or on deposit with the bank or other drawee for the payment in full of the check or order as well as all other checks or orders outstanding at the time of issuance;

(2) the payee on the check or order is a licensed distributor, ~~[or]~~ licensed supplier, or permissive supplier; and

(3) the payment is for an obligation or debt that includes a tax under this chapter to be collected by the licensed distributor, ~~[or]~~ licensed supplier, or permissive supplier.

(d) A person who makes payment on an obligation or debt that includes a tax under this chapter and pays with an insufficient funds check issued to a licensed distributor, ~~[or]~~ licensed supplier, or permissive supplier may be held liable for a penalty equal to the total amount of tax not paid to the licensed distributor, ~~[or]~~ licensed supplier, or permissive supplier.

SECTION 44. Subchapter E, Chapter 162, Tax Code, is amended by adding Section 162.410 to read as follows:

Sec. 162.410. ELECTION OF OFFENSES. If a violation of a criminal offense provision of this chapter by a person constitutes another offense under the laws of this state, the state may elect the offense for which it will prosecute the person.

SECTION 45. Article 12.01, Code of Criminal Procedure, is amended to read as follows:

Art. 12.01. FELONIES. Except as provided in Article 12.03, felony indictments may be presented within these limits, and not afterward:

(1) no limitation:

(A) murder and manslaughter;

(B) sexual assault, if during the investigation of the offense biological matter is collected and subjected to forensic DNA testing and the testing results show that the matter does not match the victim or any other person whose identity is readily ascertained; or

(C) an offense involving leaving the scene of an accident under Section 550.021, Transportation Code, if the accident resulted in the death of a person;

(2) ten years from the date of the commission of the offense:

(A) theft of any estate, real, personal or mixed, by an executor, administrator, guardian or trustee, with intent to defraud any creditor, heir, legatee, ward, distributee, beneficiary or settlor of a trust interested in such estate;

(B) theft by a public servant of government property over which he exercises control in his official capacity;

(C) forgery or the uttering, using or passing of forged instruments;

(D) injury to a child, elderly individual, or disabled individual punishable as a felony of the first degree under Section 22.04, Penal Code;

(E) sexual assault, except as provided by Subdivision (1) or (5); or

(F) arson;

(3) seven years from the date of the commission of the offense:

(A) misapplication of fiduciary property or property of a financial institution;

(B) securing execution of document by deception; or

(C) a violation under Sections 162.403(21)-(38) [~~162.403(22)-(39)~~], Tax Code;

(4) five years from the date of the commission of the offense:

(A) theft, burglary, robbery;

(B) kidnapping;

(C) injury to a child, elderly individual, or disabled individual that is not punishable as a felony of the first degree under Section 22.04, Penal Code;

(D) abandoning or endangering a child; or

(E) insurance fraud;

(5) ten years from the 18th birthday of the victim of the offense:

(A) indecency with a child under Section 21.11(a)(1) or (2), Penal Code; or

(B) except as provided by Subdivision (1), sexual assault under Section 22.011(a)(2), Penal Code, or aggravated sexual assault under Section 22.021(a)(1)(B), Penal Code; or

(6) three years from the date of the commission of the offense: all other felonies.

SECTION 46. Subsections (b) and (d), Section 20.002, Transportation Code, are amended to read as follows:

(b) This section applies to a person, other than a political subdivision, who:

(1) owns, controls, operates, or manages a commercial motor vehicle; and

(2) is exempt from the state diesel fuel tax under Section 162.204 [~~153.203~~], Tax Code.

(d) The fee imposed by this section is equal to 25 percent of the diesel fuel tax rate imposed under Section 162.202 [~~153.202(b)~~], Tax Code.

SECTION 47. Subsection (o), Section 26.3574, Water Code, is amended to read as follows:

(o) Chapters 101 and 111-113, and Sections 162.005 [~~153.006~~], 162.007 [~~153.007~~], and 162.111 [~~153.116(b)-(j)~~], Tax Code, apply to the administration, payment, collection, and enforcement of fees under this section in the same manner that those chapters apply to the administration, payment, collection, and enforcement of taxes under Title 2, Tax Code.

SECTION 48. Subdivision (34), Section 162.001, and Subsections (c) and (h), Section 162.016, Tax Code, are repealed.

SECTION 49. (a) The change in law made by Sections 10 through 50 of this Act applies only to an offense committed on or after the effective date of this Act. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before that date.

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

SECTION 50. The change in law made by Sections 10 through 50 this Act does not affect tax liability accruing before the effective date of this Act. That liability continues in effect as if this Act had not been enacted, and the former law is continued in effect for the collection of taxes due and for civil and criminal enforcement of the liability for those taxes.

(2) Strike SECTION 10 of the bill and substitute the following:

SECTION 51. Sections 10 through 50 of this Act take effect September 1, 2007. Sections 1 through 9 and Section 51 of this Act take effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by

Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, Sections 1 through 9 and Section 51 of this Act take effect September 1, 2007.

The amendment to **HB 3314** was read.

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

Floor Amendment No. 3

Amend Floor Amendment No. 2 to **HB 3314** (Senate committee printing) as follows:

(1) On page 18 of the amendment, lines 25-26, strike "Subsection" and substitute "Subsections (c-2), (d-1), and".

(2) On page 18 of the amendment, between lines 26 and 27, insert the following:

(c-2) A license holder may take a credit on a return for the period in which the purchase occurred, and a person who does not hold a license may file a refund claim with the comptroller, if:

(1) the license holder or person paid tax on diesel fuel;

(2) the diesel fuel is used in this state by moveable specialized equipment used in oil field well servicing; and

(3) the person who purchased the diesel fuel has received or is eligible to receive a federal diesel fuel tax refund under the Internal Revenue Code of 1986 for the diesel fuel used by moveable specialized equipment used in oil field well servicing.

(d-1) A license holder may take a credit on a return for the period in which the purchase occurred, and a person who does not hold a license may file a refund claim with the comptroller, if the license holder or person paid tax on diesel fuel and the diesel fuel is used in this state by auxiliary power units or power take-off equipment on any motor vehicle. If the quantity of that diesel fuel can be accurately measured while the motor vehicle is stationary by any metering or other measuring device or method designed to measure the fuel separately from fuel used to propel the motor vehicle, the comptroller may approve and adopt the use of the device as a basis for determining the quantity of diesel fuel consumed in those operations for a tax credit or tax refund. If there is no separate metering device or other approved measuring method, the license holder may take the credit and the person who does not hold a license may claim the refund on a percentage of the diesel fuel consumed by each motor vehicle equipped with an auxiliary power unit or power take-off equipment. The comptroller shall determine the percentage of the credit or refund. The climate-control air conditioning or heating system of a motor vehicle that has a primary purpose of providing for the convenience or comfort of the operator or passengers is not a power take-off system, and a credit or refund may not be allowed for the tax paid on any portion of the diesel fuel that is used for that purpose. A credit or refund may not be allowed for the diesel fuel tax paid on that portion of the diesel fuel that is used for idling.

(3) On page 24 of the amendment, line 27, strike "or".

(4) On page 24 of the amendment, line 29, strike "." and substitute the following: "; or

(39) makes a tax-free sale of motor fuel on which the taxes imposed by this chapter have not been previously paid by the seller:

(A) to a person who is not licensed to purchase tax-free motor fuel under this chapter; or

(B) in a transaction or for a purpose that is not exempt under this chapter."

(5) On page 25 of the amendment, line 16, strike "or (38) [~~or (39)~~]" and substitute "(38), or (39)".

(6) On page 27 of the amendment, line 12, strike "162.403(21)-(38)" and substitute "162.403(21)-(39)".

(7) On page 28 of the amendment, between lines 14 and 15, add the following new SECTION 49:

SECTION 49. Section 1(3), Chapter 1033, Acts of the 71st Legislature, Regular Session, 1989 (Article 8614, Vernon's Texas Civil Statutes), is amended to read as follows:

(3) "Motor fuel" has the meaning given that term by Section 162.001 [~~153.001~~], Tax Code.

(8) On page 28 of the amendment, line 15, strike "SECTION 49" and substitute "SECTION 50".

(9) On page 28 of the amendment, line 15, strike "50" between "through" and "of" and substitute "49".

(10) On page 28 of the amendment, line 22, strike "SECTION 49" and substitute "SECTION 50".

(11) On page 28 of the amendment, line 22, strike "50" between "through" and "this" and substitute "49 of".

(12) On page 28 of the amendment, line 28, strike "SECTION 51" and substitute "SECTION 52."

(13) On page 28 of the amendment, line 28, strike "50" between "through" and "of" and substitute "51".

(14) On page 28 of the amendment, line 29, strike "and Section 51".

(15) On page 29 of the amendment, line 1, strike "and Section 51".

The amendment to Floor Amendment No. 2 to **HB 3314** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 3 except as follows:

Absent-excused: Gallegos.

Question recurring on the adoption of Floor Amendment No. 2 to **HB 3314**, the amendment as amended was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2 as amended except as follows:

Absent-excused: Gallegos.

Senator Van de Putte offered the following amendment to the bill:

Floor Amendment No. 4

Amend **HB 3314** by adding the following appropriately numbered SECTIONS and renumbering subsequent SECTIONS accordingly:

SECTION __. Section 162.104(a), Tax Code, is amended to read as follows:

(a) The tax imposed by this subchapter does not apply to gasoline:

(1) sold to the United States for its exclusive use, provided that the exemption does not apply with respect to fuel sold or delivered to a person operating under a contract with the United States;

(2) sold to a public school district in this state for the district's exclusive use;

(3) sold to a commercial transportation company or a metropolitan rapid transit authority operating under Chapter 451, Transportation Code, that provides public school transportation services to a school district under Section 34.008, Education Code, and that uses the gasoline only to provide those services;

(4) exported by either a licensed supplier or a licensed exporter from this state to any other state, provided that:

(A) for gasoline in a situation described by Subsection (d), the bill of lading indicates the destination state and the supplier collects the destination state tax;

or

(B) for gasoline in a situation described by Subsection (e), the bill of lading indicates the destination state, the gasoline is subsequently exported, and the exporter is licensed in the destination state to pay that state's tax and has an exporter's license issued under this subchapter;

(5) moved by truck or railcar between licensed suppliers or licensed permissive suppliers and in which the gasoline removed from the first terminal comes to rest in the second terminal, provided that the removal from the second terminal rack is subject to the tax imposed by this subchapter;

(6) delivered or sold into a storage facility of a licensed aviation fuel dealer from which gasoline will be delivered solely into the fuel supply tanks of aircraft or aircraft servicing equipment, or sold from one licensed aviation fuel dealer to another licensed aviation fuel dealer who will deliver the aviation fuel exclusively into the fuel supply tanks of aircraft or aircraft servicing equipment; or

(7) exported to a foreign country if the bill of lading indicates the foreign destination and the fuel is actually exported to the foreign country.

SECTION __. Section 162.125(a), Tax Code, is amended to read as follows:

(a) A license holder may take a credit on a return for the period in which the sale occurred if the license holder paid tax on the purchase of gasoline and subsequently resells the gasoline without collecting the tax to:

(1) the United States government for its exclusive use, provided that a credit is not allowed for gasoline used by a person operating under contract with the United States;

(2) a public school district in this state for the district's exclusive use;

(3) an exporter licensed under this subchapter if the seller is a licensed supplier or distributor and the exporter subsequently exports the gasoline to another state;

(4) a licensed aviation fuel dealer if the seller is a licensed distributor; or

(5) a commercial transportation company or a metropolitan rapid transit authority operating under Chapter 451, Transportation Code, that provides public school transportation services to a school district under Section 34.008, Education Code, and that uses the gasoline exclusively to provide those services.

SECTION __. Subchapter B, Chapter 162, Tax Code, is amended by adding Section 162.1275 to read as follows:

Sec. 162.1275. REFUND FOR CERTAIN METROPOLITAN RAPID TRANSIT AUTHORITIES. (a) Except as otherwise provided by this section, a metropolitan rapid transit authority operating under Chapter 451, Transportation Code, that is a party to a contract governed by Section 34.008, Education Code, is entitled to a refund of taxes paid under this subchapter for gasoline used to provide services under the contract and may file a refund claim with the comptroller for the amount of those taxes.

(b) The refund claim under Subsection (a) must contain information regarding:

(1) vehicle mileage;

(2) hours of service provided;

(3) fuel consumed;

(4) the total number of student passengers per route; and

(5) the total number of non-student passengers per route.

(c) If in any month of a school year the number of non-student passengers is greater than five percent of the total passengers for any single route under a contract governed by Section 34.008, Education Code, the metropolitan rapid transit authority is not entitled to a refund of taxes paid under this subchapter for the route for that month.

(d) A metropolitan rapid transit authority that requests a refund under this section shall maintain all supporting documentation relating to the refund until the sixth anniversary of the date of the request.

SECTION __. Section 162.204(a), Tax Code, is amended to read as follows:

(a) The tax imposed by this subchapter does not apply to:

(1) diesel fuel sold to the United States for its exclusive use, provided that the exemption does not apply to diesel fuel sold or delivered to a person operating under a contract with the United States;

(2) diesel fuel sold to a public school district in this state for the district's exclusive use;

(3) diesel fuel sold to a commercial transportation company or a metropolitan rapid transit authority operating under Chapter 451, Transportation Code, that provides public school transportation services to a school district under Section 34.008, Education Code, and that uses the diesel fuel only to provide those services;

(4) diesel fuel exported by either a licensed supplier or a licensed exporter from this state to any other state, provided that:

(A) for diesel fuel in a situation described by Subsection (d), the bill of lading indicates the destination state and the supplier collects the destination state tax;
or

(B) for diesel fuel in a situation described by Subsection (e), the bill of lading indicates the destination state, the diesel fuel is subsequently exported, and the exporter is licensed in the destination state to pay that state's tax and has an exporter's license issued under this subchapter;

(5) diesel fuel moved by truck or railcar between licensed suppliers or licensed permissive suppliers and in which the diesel fuel removed from the first terminal comes to rest in the second terminal, provided that the removal from the second terminal rack is subject to the tax imposed by this subchapter;

(6) diesel fuel delivered or sold into a storage facility of a licensed aviation fuel dealer from which the diesel fuel will be delivered solely into the fuel supply tanks of aircraft or aircraft servicing equipment, or sold from one licensed aviation fuel dealer to another licensed aviation fuel dealer who will deliver the diesel fuel exclusively into the fuel supply tanks of aircraft or aircraft servicing equipment;

(7) diesel fuel exported to a foreign country if the bill of lading indicates the foreign destination and the fuel is actually exported to the foreign country;

(8) dyed diesel fuel sold or delivered by a supplier to another supplier and dyed diesel fuel sold or delivered by a supplier or distributor into the bulk storage facility of a dyed diesel fuel bonded user or to a purchaser who provides a signed statement as provided by Section 162.206;

(9) the volume of water, fuel ethanol, biodiesel, or mixtures thereof that are blended together with taxable diesel fuel when the finished product sold or used is clearly identified on the retail pump, storage tank, and sales invoice as a combination of diesel fuel and water, fuel ethanol, biodiesel, or mixtures thereof;

(10) dyed diesel fuel sold by a supplier or permissive supplier to a distributor, or by a distributor to another distributor;

(11) dyed diesel fuel delivered by a license holder into the fuel supply tanks of railway engines, motorboats, or refrigeration units or other stationary equipment powered by a separate motor from a separate fuel supply tank;

(12) dyed kerosene when delivered by a supplier, distributor, or importer into a storage facility at a retail business from which all deliveries are exclusively for heating, cooking, lighting, or similar nonhighway use; or

(13) diesel fuel used by a person, other than a political subdivision, who owns, controls, operates, or manages a commercial motor vehicle as defined by Section 548.001, Transportation Code, if the fuel:

(A) is delivered exclusively into the fuel supply tank of the commercial motor vehicle; and

(B) is used exclusively to transport passengers for compensation or hire between points in this state on a fixed route or schedule.

SECTION __. Section 162.227(a), Tax Code, is amended to read as follows:

(a) A license holder may take a credit on a return for the period in which the sale occurred if the license holder paid tax on the purchase of diesel fuel and subsequently resells the diesel fuel without collecting the tax to:

(1) the United States government for its exclusive use, provided that a credit is not allowed for gasoline used by a person operating under a contract with the United States;

(2) a public school district in this state for the district's exclusive use;

(3) an exporter licensed under this subchapter if the seller is a licensed supplier or distributor and the exporter subsequently exports the diesel fuel to another state;

(4) a licensed aviation fuel dealer if the seller is a licensed distributor; or

(5) a commercial transportation company or a metropolitan rapid transit authority operating under Chapter 451, Transportation Code, that provides public school transportation services to a school district under Section 34.008, Education Code, and that uses the diesel fuel exclusively to provide those services.

SECTION __. Subchapter C, Chapter 162, Tax Code, is amended by adding Section 162.2275 to read as follows:

Sec. 162.2275. REFUND FOR CERTAIN METROPOLITAN RAPID TRANSIT AUTHORITIES. (a) Except as otherwise provided by this section, a metropolitan rapid transit authority operating under Chapter 451, Transportation Code, that is a party to a contract governed by Section 34.008, Education Code, is entitled to a refund of taxes paid under this subchapter for diesel fuel used to provide services under the contract and may file a refund claim with the comptroller for the amount of those taxes.

(b) The refund claim under Subsection (a) must contain information regarding:

(1) vehicle mileage;

(2) hours of service provided;

(3) fuel consumed;

(4) the total number of student passengers per route; and

(5) the total number of non-student passengers per route.

(c) If in any month of a school year the number of non-student passengers is greater than five percent of the total passengers for any single route under a contract governed by Section 34.008, Education Code, the metropolitan rapid transit authority is not entitled to a refund of taxes paid under this subchapter for the route for that month.

(d) A metropolitan rapid transit authority that requests a refund under this section shall maintain all supporting documentation relating to the refund until the sixth anniversary of the date of the request.

SECTION __. Section 162.3021(b), Tax Code, is amended to read as follows:

(b) Subject to Section 162.3022, the [The] tax imposed by this subchapter does not apply to the sale of liquefied petroleum gas to a commercial transportation company or a metropolitan rapid transit authority operating under Chapter 451, Transportation Code, that uses the gas exclusively to provide public school transportation services to a school district under Section 34.008, Education Code, or to the use of liquefied petroleum gas by that company for that purpose. A motor vehicle that uses liquefied petroleum gas and that is owned by a commercial transportation company or a metropolitan rapid transit authority operating under Chapter 451, Transportation Code, and used exclusively to provide public school transportation services to a school district under Section 34.008, Education Code, is not required to have a liquefied gas tax decal or a special use liquefied gas tax decal.

SECTION __. Subchapter D, Chapter 162, Tax Code, is amended by adding Section 162.3022 to read as follows:

Sec. 162.3022. EXCLUSIVE USE FOR CERTAIN METROPOLITAN RAPID TRANSIT AUTHORITIES. (a) This section applies to a metropolitan rapid transit authority operating under Chapter 451, Transportation Code, that is a party to a contract governed by Section 34.008, Education Code, that is not required under Section 162.3021 to have a liquefied gas tax decal or a special use liquefied gas tax decal for liquefied gas used to provide services under the contract.

(b) If in any month of a school year the number of non-student passengers is greater than five percent of the total passengers for any single route under a contract governed by Section 34.008, Education Code, the metropolitan rapid transit authority is liable for the tax under this subchapter in an amount that is prorated for that month.

(c) The metropolitan rapid transit authority shall maintain the following supporting documentation relating to the services provided under the contract until the sixth anniversary of the date of the services provided:

- (1) vehicle mileage;
- (2) hours of service provided;
- (3) fuel consumed;
- (4) the total number of student passengers per route; and
- (5) the total number of non-student passengers per route.

(d) The comptroller may adopt rules to implement this section.

SECTION __. The changes in law made by this Act to Chapter 162, Tax Code, do not affect taxes imposed before the effective date of this Act, and the law in effect before the effective date of this Act is continued in effect for purposes of the liability for and collection of those taxes.

SECTION __. Notwithstanding any other provision of this Act, the Sections of this Act amending Chapter 162, Tax Code, take effect July 1, 2007, 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 effect on that date, those Sections take effect October 1, 2007.

The amendment to **HB 3314** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 4 except as follows:

Absent-excused: Gallegos.

Senator Carona offered the following amendment to the bill:

Floor Amendment No. 5

Amend **HB 3314** (Senate committee printing) as follows:

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

SECTION __. Section 502.185, Transportation Code, is amended to read as follows:

Sec. 502.185. REFUSAL TO REGISTER CERTAIN VEHICLES [~~VEHICLE IN CERTAIN COUNTIES~~]. (a) A county may enter into a contract with [~~assessor collector or~~] the department under which the department shall [~~may~~] refuse

to register a motor vehicle if the assessor-collector for that county notifies ~~[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) ~~The [A county may contract with the]~~ department shall refuse to register a motor vehicle if the department has received from the assessor-collector for a county that has entered into a contract with [to provide information to] the department [necessary to make a determination] under Subsection (a) notice that the owner of the vehicle owes the county money for a fine, fee, or tax that is past due. To be valid, the notice must include:

(1) the name of the owner and the license number or vehicle identification number of the vehicle;

(2) the amount of each fine, fee, or tax that is past due;

(3) the name of the entity to which each fine, fee, or tax is due; and

(4) the address of the office where payment of each fine, fee, or tax can be made or sent and the telephone number for that office.

(c) On receipt of notice that complies with Subsection (b), the department shall notify the owner of the vehicle, in writing, of the department's refusal under this section to register the vehicle. The department shall include with the notice to the owner a copy of the notice received from the county assessor-collector under Subsection (b) or a statement that includes the information listed in Subsections (b)(1)-(4). The notice must state that the department will continue to refuse to register the vehicle until the owner pays or otherwise discharges each fine, fee, or tax due the county.

(d) A county assessor-collector who [that] has sent a notice to the department [contract] under Subsection (b) shall notify the department not later than the third business day after the date the person [regarding a person for whom the county assessor collector or the department has refused to register a motor vehicle on]:

(1) makes [the person's] payment or other means of discharge of the past due fine, fee, or tax; or

(2) perfects [perfection of] an appeal of the case contesting payment of the fine, fee, or tax.

(e) [~~d~~] After notice is received under Subsection (d), [~~e~~, the county assessor collector or] the department may not refuse to register the motor vehicle under Subsection (b) [~~a~~].

(f) The department may enter into a [~~e~~-A] contract with a private vendor to implement this section [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].

(g) [~~f~~] A county that has entered into a contract under Subsection (a) [~~b~~] may impose an additional fee on [to] a person paying a fine, fee, or tax to the county after the date the county assessor-collector sends notice to the department under Subsection (b) [it is past due]. The amount of the additional fee must be reasonable. Each additional fee collected by a county shall be sent to the department for deposit to the credit of the state highway fund and [may be] used only to reimburse the department for its expenses for providing services under the contract.

(h) [~~e~~] 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.

(i) ~~(h)~~ This section does not apply to the registration of a motor vehicle under Section 501.0234.

(2) In SECTION 10 of the bill, the effective date provision (on page 4, line 3), strike "This" and substitute "(a) Except as provided by Subsection (b) of this section, this".

(3) At the end of SECTION 10 of the bill, the effective date provision (on page 4, immediately below line 7), add the following:

(b) The SECTION of this Act that amends Section 502.185, Transportation Code, takes effect September 1, 2010. An existing contract entered into by a county and the Texas Department of Transportation under Section 502.185, Transportation Code, as that section existed immediately before September 1, 2010, automatically terminates on that date.

The amendment to **HB 3314** was read.

Senator Carona temporarily withdrew Floor Amendment No. 5.

Senator Duncan, on behalf of Senator Seliger, offered the following amendment to the bill:

Floor Amendment No. 6

Amend **HB 3314** (Senate committee printing) by adding the following appropriately numbered SECTION to read as follows and renumbering subsequent SECTIONS accordingly:

SECTION __. (a) Subsection (b), Section 202.061, Tax Code, is amended to read as follows:

(b) The taxpayer responsible for the payment of severance taxes on the production from a marginal well in this state on which enhanced efficiency equipment is installed and used is entitled to a credit in an amount equal to 10 percent of the cost of the equipment, provided that:

(1) the cumulative total of all severance tax credits authorized by this section may not exceed \$1,000 for any marginal well;

(2) the enhanced efficiency equipment installed in a qualifying marginal well must have been purchased and installed not earlier than September 1, 2005, or later than September 1, 2013 ~~[2009]~~;

(3) the taxpayer must file an application with the comptroller for the credit and must demonstrate to the comptroller that the enhanced efficiency equipment has been purchased and installed in the marginal well within the period prescribed by Subdivision (2);

(4) the number of applications the comptroller may approve each state fiscal year may not exceed a number equal to one percent of the producing marginal wells in this state on September 1 of that state fiscal year, as determined by the comptroller; and

(5) the manufacturer of the enhanced efficiency equipment must obtain an evaluation of the product under Subsection (a).

(b) Notwithstanding any other provision of this Act, this section takes effect September 1, 2007.

The amendment to **HB 3314** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 6 except as follows:

Absent-excused: Gallegos.

Senator Carona again offered the following amendment to the bill:

Floor Amendment No. 5

Amend **HB 3314** (Senate committee printing) as follows:

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

SECTION ____ . Section 502.185, Transportation Code, is amended to read as follows:

Sec. 502.185. REFUSAL TO REGISTER CERTAIN VEHICLES [~~VEHICLE IN CERTAIN COUNTIES~~]. (a) A county may enter into a contract with [~~assessor-collector or~~] the department under which the department shall [~~may~~] refuse to register a motor vehicle if the assessor-collector for that county notifies [~~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) The [~~A county may contract with the~~] department shall refuse to register a motor vehicle if the department has received from the assessor-collector for a county that has entered into a contract with [~~to provide information to~~] the department [~~necessary to make a determination~~] under Subsection (a) notice that the owner of the vehicle owes the county money for a fine, fee, or tax that is past due. To be valid, the notice must include:

(1) the name of the owner and the license number or vehicle identification number of the vehicle;

(2) the amount of each fine, fee, or tax that is past due;

(3) the name of the entity to which each fine, fee, or tax is due; and

(4) the address of the office where payment of each fine, fee, or tax can be made or sent and the telephone number for that office.

(c) On receipt of notice that complies with Subsection (b), the department shall notify the owner of the vehicle, in writing, of the department's refusal under this section to register the vehicle. The department shall include with the notice to the owner a copy of the notice received from the county assessor-collector under Subsection (b) or a statement that includes the information listed in Subsections (b)(1)-(4). The notice must state that the department will continue to refuse to register the vehicle until the owner pays or otherwise discharges each fine, fee, or tax due the county.

(d) A county assessor-collector who ~~that~~ has sent a notice to the department ~~contract~~ under Subsection (b) shall notify the department not later than the third business day after the date the person ~~regarding a person for whom the county assessor-collector or the department has refused to register a motor vehicle on~~:

(1) ~~makes~~ ~~the person's~~ payment or other means of discharge of the past due fine, fee, or tax; or

(2) ~~perfects~~ ~~perfection of~~ an appeal of the case contesting payment of the fine, fee, or tax.

(e) ~~(d)~~ After notice is received under Subsection (d), ~~(e), the county assessor-collector or~~ the department may not refuse to register the motor vehicle under Subsection (b) ~~(e)~~.

(f) ~~The department may enter into a (e)-A contract with a private vendor to implement this section 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.~~

(g) ~~(f)~~ A county that has ~~entered into~~ a contract under Subsection (a) ~~(b)~~ may impose an additional fee on ~~to~~ a person paying a fine, fee, or tax to the county after the date the county assessor-collector sends notice to the department under Subsection (b) ~~it is past due~~. The amount of the additional fee must be reasonable. Each additional fee collected by a county shall be sent to the department for deposit to the credit of the state highway fund and ~~may be~~ used only to reimburse the department for its expenses for providing services under the contract.

(h) ~~(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.

(i) ~~(h)~~ This section does not apply to the registration of a motor vehicle under Section 501.0234.

(2) In SECTION 10 of the bill, the effective date provision (on page 4, line 3), strike "This" and substitute "(a) Except as provided by Subsection (b) of this section, this".

(3) At the end of SECTION 10 of the bill, the effective date provision (on page 4, immediately below line 7), add the following:

(b) The SECTION of this Act that amends Section 502.185, Transportation Code, takes effect September 1, 2010. An existing contract entered into by a county and the Texas Department of Transportation under Section 502.185, Transportation Code, as that section existed immediately before September 1, 2010, automatically terminates on that date.

The amendment to **HB 3314** was again read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 5 except as follows:

Absent-excused: Gallegos.

Senator Ogden offered the following amendment to the bill:

Floor Amendment No. 7

Amend **HB 3314** by adding an appropriately numbered SECTION to the bill to read as follow, and renumbering subsequent SECTIONS accordingly:

SECTION __. Subsections (b) and (d), Section 222.003, Transportation Code, are amended to read as follows:

(b) The aggregate principal amount of the bonds and other public securities that are issued may not exceed \$6 [~~\$3~~] billion. The commission may only issue bonds or other public securities in an aggregate principal amount of not more than \$1.5 [~~\$1~~] billion each year.

(d) Of the aggregate principal amount of bonds and other public securities that may be issued under this section, the commission shall issue bonds or other public securities in an aggregate principal amount of \$1.2 billion [~~\$600 million~~] to fund projects that reduce accidents or correct or improve hazardous locations on the state highway system. The commission by rule shall prescribe criteria for selecting projects eligible for funding under this section. In establishing criteria for the projects, the commission shall consider accident data, traffic volume, pavement geometry, and other conditions that can create or exacerbate hazardous roadway conditions.

The amendment to **HB 3314** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 7 except as follows:

Nays: Patrick.

Absent-excused: Gallegos.

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 8

Amend **HB 3314** to add new Section __ as follows:

SECTION __. Section 151.326, Tax Code, is amended as follows:

Section 151.326. Clothing and Footwear for Limited Period. (a) The sale of an article of clothing or footwear designed to be worn on or about the human body is exempted from the taxes imposed by this chapter if:

(1) the sales price of the article is less than \$100, and

(2) the sale takes place during a period beginning at 12:01 a.m. on the ~~first~~ third Friday in August and ending at 12 midnight on the following Sunday.

(b) This section does not apply to:

(1) Any special clothing or footwear that is primarily designed for athletic activity or protective use and that is not normally worn except when used for the athletic activity or protective use it is for which it is designed;

(2) accessories, including jewelry, handbags, luggage, umbrellas, wallets, watches, and similar items carried on or about the human body, without regard to whether worn on the body in a manner characteristic of clothing; and

(3) the rental of clothing or footwear.

(c) The sale of a school backpack made for a sales price less than \$100 during the period described in this Section is exempted from the taxes imposed by this chapter if the backpack is purchased for use by a student in a public or private elementary or secondary school. A retailer is not required to obtain an exemption certificate stating that school backpacks are purchased for use by students in a public or private elementary or secondary school unless the backpacks are purchased in a quantity that indicates that the backpacks are not purchased for use by students in a public or private elementary or secondary school.

(d) This section 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 of this section, this section shall take effect on the effective date provided for in this Act.

The amendment to **HB 3314** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 8 except as follows:

Absent-excused: Gallegos.

Senator Williams offered the following amendment to the bill:

Floor Amendment No. 9

Amend **HB 3314** by adding the following sections:

SECTION __. Subchapter A, Chapter 222, Transportation Code, is amended by adding Section 222.004 to read as follows:

Sec. 222.004. ISSUANCE OF GENERAL OBLIGATION BONDS FOR HIGHWAY IMPROVEMENT PROJECTS. (a) The commission may issue general obligation bonds to fund state highway improvement projects.

(b) The aggregate principal amount of the bonds that are issued may not exceed \$5 billion.

(c) The proceeds of bonds issued under this section may not be used for any purpose other than the payment of any costs related to the bonds and the purposes for which revenues are dedicated under Section 7-a, Article VIII, Texas Constitution.

(d) The commission may enter into credit agreements, as defined by Chapter 1371, Government Code, relating to the bonds authorized by this section. The agreements may be secured by and payable from the same sources as the bonds.

(e) All laws affecting the issuance of bonds and other public securities by governmental entities, including Chapters 1201, 1202, 1204, 1207, 1231, and 1371, Government Code, apply to the issuing of bonds and the entering into of credit agreements under this section.

(f) The proceeds of bonds issued under this section may be used to:

(1) finance other funds relating to the bonds, including debt service reserve and contingency; and

(2) pay the cost or expense of the issuance of the bonds.

(g) Bonds issued under this section may be sold in such manner and subject to such terms and provisions as set forth in the order authorizing their issuance, and such bonds must mature not later than 30 years after their dates of issuance, subject to any refundings or renewals.

(h) The comptroller shall pay the principal of the bonds as they mature and the interest as it becomes payable, and shall pay any cost related to the bonds that become due, including payments under credit agreements.

SECTION __. Section 222.004, Transportation Code, as added by this Act, takes effect on the date on which the constitutional amendment proposed by S.J.R. No. 64, 80th Legislature, Regular Session, 2007, takes effect. If that amendment is not approved by the voters, that section does not take effect.

The amendment to **HB 3314** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 9 except as follows:

Absent-excused: Gallegos.

Senator Wentworth offered the following amendment to the bill:

Floor Amendment No. 10

Amend **HB 3314** by adding the following SECTION to the bill, appropriately numbered, and renumbering subsequent SECTIONS accordingly:

SECTION __. (a) Section 11.184, Tax Code, is amended by amending Subsection (c) and adding Subsections (l), (m), and (n) to read as follows:

(c) A [If approved under Subsection (b), a] qualified charitable organization is entitled to an exemption from taxation of:

(1) the buildings and other real property and the tangible personal property that:

(A) are owned by the organization; and

(B) except as permitted by Subsection (d), are used exclusively by the organization and other organizations eligible for an exemption from taxation under this section or Section 11.18; and

(2) the real property owned by the organization consisting of:

(A) an incomplete improvement that:

(i) is under active construction or other physical preparation; and

(ii) is designed and intended to be used exclusively by the organization and other organizations eligible for an exemption from taxation under this section or Section 11.18; and

(B) the land on which the incomplete improvement is located that will be reasonably necessary for the use of the improvement by the organization and other organizations eligible for an exemption from taxation under this section or Section 11.18.

(l) Notwithstanding the other provisions of this section, a corporation that is not a qualified charitable organization is entitled to an exemption from taxation of property under this section if:

(1) the corporation is exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed as an exempt entity under Section 501(c)(2) of that code;

(2) the corporation holds title to the property for, collects income from the property for, and turns over the entire amount of that income, less expenses, to a qualified charitable organization; and

(3) the qualified charitable organization would qualify for an exemption from taxation of the property under this section if the qualified charitable organization owned the property.

(m) Before a corporation described by Subsection (l) may submit an application for an exemption under this section, the qualified charitable organization for which the corporation holds title to the property must apply to the comptroller for the determination described by Subsection (e) with regard to the qualified charitable organization. The application for the determination must also include an application to the comptroller for a determination of whether the corporation meets the requirements of Subsections (l)(1) and (2). The corporation shall submit with the application for an exemption under this section a copy of the determination letter issued by the comptroller. The chief appraiser shall accept the copy of the letter as conclusive evidence of the matters described by Subsection (h) as well as of whether the corporation meets the requirements of Subsections (l)(1) and (2).

(n) Notwithstanding Subsection (k), in order for a corporation to continue to receive an exemption under Subsection (l) after the fifth tax year after the year in which the exemption is granted, the qualified charitable organization for which the corporation holds title to property must obtain a new determination letter and the corporation must reapply for the exemption.

(b) Section 11.184(b), Tax Code, is repealed.

(c) This section applies only to ad valorem taxes imposed for a tax year beginning on or after January 1, 2008.

The amendment to **HB 3314** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 10 except as follows:

Absent-excused: Gallegos.

(President in Chair)

Senator Estes offered the following amendment to the bill:

Floor Amendment No. 11

Amend **HB 3314** by adding the following SECTION to the bill, appropriately numbered, and renumbering subsequent SECTIONS accordingly:

SECTION __. (a) Section 21.02(e), Tax Code, is amended to read as follows:

(e) In this subsection, "portable drilling rig" includes equipment associated with the drilling rig. A portable drilling rig designed for land-based oil or gas drilling or exploration operations is taxable by each ~~the~~ taxing unit in which the rig is located on January 1 if the rig was located in the appraisal district that appraises property for the unit for the preceding 365 consecutive days. If the drilling rig was not located in the appraisal district where it is located on January 1 for the preceding 365 days, it is taxable by each ~~the~~ taxing unit in which the owner's principal place of business in this state is located on January 1, unless the owner renders the rig under Chapter 22 to the appraisal district in which the rig is located on January 1, in which event the rig is taxable by each taxing unit in which the rig is located on January 1. If an owner elects to render any portable drilling rig to the appraisal district in which the rig is located on January 1 when the rig otherwise would be taxable at the owner's principal place of

business in this state, all the owner's portable drilling rigs are taxable by the taxing units in which each rig is located on January 1. Notwithstanding any other provision of this subsection, if the owner of a portable drilling rig does not have a place of business in this state, the rig is taxable by each taxing unit in which the rig is located on January 1.

(b) Subsection (a) of this section applies only to a tax year that begins on or after the effective date of this section.

(c) This section takes effect January 1, 2008.

The amendment to **HB 3314** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 11 except as follows:

Absent-excused: Gallegos.

On motion of Senator Duncan and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 3314 as amended was passed to third reading by a viva voce vote.

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

Absent-excused: Gallegos.

HOUSE BILL 3314 ON THIRD READING

Senator Duncan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3314** be placed on its third reading and final passage.

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

Absent-excused: Gallegos.

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

COMMITTEE SUBSTITUTE HOUSE BILL 3560 ON SECOND READING

On motion of Senator Janek and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 3560** at this time on its second reading:

CSHB 3560, Relating to transferring to the comptroller the duties of the Texas Building and Procurement Commission that do not primarily concern state facilities and renaming the commission the Texas Facilities Commission.

The bill was read second time.

(Senator Ellis in Chair)

Senator West offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 3560** (Senate committee report), in SECTION 1.25 of the bill, in amended Subsection (a), Section 2161.127, Government Code (page 8, line 16), between "a" and "performance", by inserting "key".

The amendment to **CSHB 3560** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent-excused: Gallegos.

Senator Watson offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSHB 3560** by adding the following SECTIONS, numbered appropriately, and by renumbering any subsequent SECTIONS accordingly:

SECTION ____. Subtitle D, Title 4, Government Code, is amended by adding Chapter 446 to read as follows:

CHAPTER 446. TEXAS STATE MUSIC HISTORY MUSEUM

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 446.001. DEFINITIONS. In this chapter:

(1) "Museum operator" means the person selected by the music office to operate the museum.

(2) "Music office" means the Music, Film, Television, and Multimedia Office established in Chapter 485.

Sec. 446.002. CREATION; PURPOSE. (a) The Texas State Music History Museum is created to educate visitors on the musical heritage of Texas, display objects and information relating to the musical history of Texas, and recognize great musical artists that have contributed to the musical fabric of Texas.

(b) Section 2165.005 does not apply to the museum.

[Sections 446.003-446.020 reserved for expansion]

SUBCHAPTER A-1. REQUESTS FOR PROPOSALS

FOR MUSEUM

Sec. 446.021. DEFINITION. In this subchapter, "proposal advisory council" means the proposal advisory council created by Section 446.024.

Sec. 446.022. REQUEST FOR PROPOSAL PROCESS. The music office shall establish a request for proposal process to select contractors for the operation and, if applicable, construction of the museum.

Sec. 446.023. CRITERIA. (a) The music office, with the assistance of the proposal advisory council, shall develop criteria to evaluate proposals for selecting a contractor for the initial operation and, if applicable, construction of the museum.

(b) The criteria must:

(1) require proposals that do not require money appropriated by the state;

(2) specify information that must be provided in a proposal, including:

(A) information on the construction cost, if applicable;

(B) the proposed location of the museum;

(C) sources of funding for the construction, if applicable;

(D) estimated revenue from and annual usage of the museum; and

(E) the proposed museum operator; and

(3) allow the music office to change the museum operator after a period of time specified by the music office.

Sec. 446.024. PROPOSAL ADVISORY COUNCIL. (a) A proposal advisory council is created to advise the music office on the request for proposal process.

(b) The proposal advisory council is made up of six members appointed by the governor as follows:

(1) one representative from the Texas Commission on the Arts;

(2) one representative from the State Preservation Board;

(3) one representative from the Texas Historical Commission;

(4) one representative from the Texas Economic Development and Tourism

Office;

(5) one representative involved in tourism-related activities at the Texas Department of Transportation; and

(6) one representative from the music office.

(c) The music office representative serves as the presiding officer of the proposal advisory council.

(d) The proposal advisory council shall meet at the call of the presiding officer.

(e) Chapter 2110 does not apply to the council.

Sec. 446.025. DUTIES OF PROPOSAL ADVISORY COUNCIL. The proposal advisory council shall advise the music office regarding:

(1) criteria used to select a proposal for operation and, if applicable, construction of the museum under this subchapter; and

(2) the selection process after proposals have been submitted for the operation and, if applicable, construction of the museum.

Sec. 446.026. EXPIRATION. On September 1, 2013, the proposal advisory council is abolished and this subchapter expires.

[Sections 446.027-446.050 reserved for expansion]

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

Sec. 446.051. ADMINISTRATION. The music office shall administer this chapter.

Sec. 446.052. ADVISORY BOARD. (a) The music history advisory board is created to advise the music office and the museum operator on the content and additions to the content of the Texas State Music History Museum, including the addition of specific Texan artists for recognition of their contributions to music.

(b) The advisory board is appointed by the governor and must include at least one representative from the Texas Commission on the Arts.

Sec. 446.053. MUSEUM OPERATOR. The music office shall hire a museum operator to manage the operation of the museum.

Sec. 446.054. PERSONNEL. The museum operator may hire personnel necessary for the museum.

[Sections 446.055-446.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 446.101. GENERAL POWERS. (a) The museum shall provide exhibits, programs, and activities that promote the purposes described by Section 446.002 and support the education of the public, including students, in the knowledge and appreciation of the various musical trailblazers and pioneers of Texas and the varied

musical styles of Texas that have evolved and cross-pollinated the face of modern popular music, including country, blues, jazz, gospel, rock, pop, and TexMex or Tejano music.

(b) The music office and museum operator may exercise any power appropriate to implement or promote a museum purpose.

Sec. 446.102. SALE OF MUSIC. (a) The museum operator may license and sell music from the museum's website.

(b) In addition to music connected with Texas music history, the museum operator may sell commercially produced music from the museum's website.

Sec. 446.103. LIVE MUSIC. The museum operator may host live musical performances.

Sec. 446.104. FILMS, RECORDINGS, AND OTHER PRODUCTS. The museum operator may develop and produce films, musical recordings or compilations, and other products and may retain royalties or otherwise receive revenue from the production, distribution, exhibition, or sale of those films, recordings, or products.

Sec. 446.105. MEMBERSHIP PROGRAM. The museum operator may establish a museum membership program.

Sec. 446.106. MARKETING AND PUBLIC RELATIONS. (a) The museum operator may market and publicize the museum's exhibits, programs, and activities.

(b) The museum operator may:

(1) employ public relations personnel;

(2) publish brochures, books, and periodicals intended for the general public that are promotional, informational, or educational; and

(3) advertise the museum in any available media.

Sec. 446.107. VENDING FACILITIES. (a) In addition to exhibits and theaters, the museum operator may operate:

(1) a gift shop;

(2) food services, including one or more restaurants, cafeterias, and vending machines;

(3) pay station telephones;

(4) automated teller machines; and

(5) other services and facilities convenient or necessary for visitors to the museum.

(b) Chapter 94, Human Resources Code, does not apply to vending facilities operated by or approved for operation in the museum.

Sec. 446.108. TOURS; PARKING AND TRANSPORTATION. The museum operator may provide parking for visitors and, in cooperation with other public and private authorities, may participate in providing for tour transportation of visitors between other historical and cultural sites.

Sec. 446.109. PRIVATE EVENTS. (a) The museum operator may rent all or part of the museum facility at various times for private events. The museum operator may restrict public access to that part of the facility rented for a private event.

(b) The museum operator may provide for the sale, gift, possession, and consumption of alcoholic beverages at a private event held in the facility.

Sec. 446.110. SUPPORT ORGANIZATIONS. The museum operator may establish and maintain one or more organizations of persons interested in supporting the programs and activities of the museum. Such an organization may be incorporated as a Texas nonprofit corporation.

Sec. 446.111. CONTRACTS. The museum operator may enter into contracts with any person to the extent necessary or convenient to construct or operate the museum, including contracts for exhibits, programs, activities, and facilities, and contracts to acquire, by purchase or loan, items for exhibition.

Sec. 446.112. PROGRAM AND FACILITY ACCESSIBILITY. The museum operator shall comply with federal and state laws related to program and facility accessibility. The museum operator shall prepare and maintain a written plan that describes how a person who does not speak English can be provided reasonable access to the museum's programs and services.

[Sections 446.113-446.150 reserved for expansion]

SUBCHAPTER D. FINANCIAL PROVISIONS

Sec. 446.151. GENERAL FUNDING AND SPENDING AUTHORITY. (a) To the extent possible, the costs of operating the museum shall be paid from revenues generated by the museum. Money from the general revenue fund, other than gifts, grants, and donations that may be used for operating the museum and are deposited in the general revenue fund, may not be appropriated for the purpose of operating the museum.

(b) The museum operator may spend money received by the museum for any purpose connected with the museum.

Sec. 446.152. GIFTS, GRANTS, AND DONATIONS. (a) The museum operator shall solicit and may accept donations of money or items from individuals and from public or private foundations and organizations.

(b) The music office may accept donations and grants for the museum.

Sec. 446.153. FEES. (a) The museum operator may set and collect fees in amounts necessary to operate the museum, including fees for:

- (1) admission to exhibits, theaters, programs, and activities;
- (2) parking and transportation; and
- (3) facility rental.

(b) The museum operator may sell at prices set by the museum operator items manufactured or publications printed under contract with the museum.

Sec. 446.154. AUDIT. The transactions, funds, and programs of the museum are subject to audit by the state auditor in accordance with Chapter 321.

Sec. 446.155. STATE EMPLOYEE CHARITABLE CONTRIBUTIONS. For purposes of Subchapter I, Chapter 659:

(1) the museum is considered an eligible charitable organization entitled to participate in a state employee charitable campaign under Subchapter I, Chapter 659; and

(2) a state employee is entitled to authorize a deduction for contributions to the museum, including contributions for museum membership, as a charitable contribution under Section 659.132, and the museum may use the contributions for museum purposes.

Sec. 446.156. MUSEUM FUND. (a) All money and securities received by the museum, including the net revenue from vending facilities under Section 446.107, shall be credited to and held in trust outside the treasury by the comptroller in a special fund to be known as the Texas State Music History Museum fund.

(b) The comptroller shall manage and invest the fund on behalf of the museum as directed or agreed to by the museum operator. Interest, dividends, and other income of the fund shall be credited to the fund.

(c) The museum operator shall prepare a detailed annual report on the fund. That report must describe the status of the fund, list all donations to the fund, including the name of each donor, and list all disbursements from the fund, including the purpose of each disbursement.

(d) The state auditor, based on a risk assessment and subject to the legislative audit committee's approval of including the review in the audit plan under Section 321.013, may review the annual report on the fund, and any information used in preparing the report as the auditor determines necessary, and shall report any findings or recommendations to the museum and the legislative audit committee.

(e) The fund is not subject to Subchapter F, Chapter 404. A provision of this chapter or other law that provides for the deposit of money or another thing of value into the fund prevails over Subchapter F, Chapter 404.

(f) Subtitle D, Title 10, does not apply to a purchase or lease made with money from the fund.

Sec. 446.157. INSURANCE. The museum operator may purchase insurance policies to insure the museum buildings and contents and other personal property against any insurable risk, including insurance covering historical artifacts, art, recordings, or other items, including items on loan to the museum.

SECTION ____ . This Act takes effect September 1, 2007.

The amendment to **CSHB 3560** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2 except as follows:

Absent-excused: Gallegos.

Senator Van de Putte offered the following amendment to the bill:

Floor Amendment No. 3

Amend **CSHB 3560** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill as appropriate:

SECTION __. Subsections (a), (c), and (e), Section 2155.444, Government Code, are amended to read as follows:

(a) The commission and all state agencies making purchases of goods, including agricultural products, shall give preference to those produced or grown in this state or offered by Texas bidders as follows:

(1) goods produced or offered by a Texas bidder that is owned by a service-disabled veteran who is a Texas resident shall be given a first preference and goods produced in this state or offered by other Texas bidders shall [equally] be given second preference, if the cost to the state and quality are equal; and

(2) agricultural products grown in this state shall be given first preference and agricultural products offered by Texas bidders shall be given second preference, if the cost to the state and quality are equal.

(c) In this section:

(1) "Agricultural products" includes textiles and other similar products.

(1-a) "Service-disabled veteran" means a person who is a veteran as defined by 38 U.S.C. Section 101(2) and who has a service-connected disability as defined by 38 U.S.C. Section 101(16).

(2) "Texas bidder" means a business:

(A) incorporated in this state;

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

(C) that has an established physical presence in this state.

(e) The commission and all state agencies procuring services shall give first preference to services offered by a Texas bidder that is owned by a service-disabled veteran who is a Texas resident and shall give second preference to services offered by other Texas bidders if:

(1) the services meet state requirements regarding the service to be performed and expected quality; and

(2) the cost of the service does not exceed the cost of other similar services of similar expected quality that are ~~not~~ offered by a ~~[Texas]~~ bidder that is not entitled to a preference under this subsection.

The amendment to **CSHB 3560** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 3 except as follows:

Absent-excused: Gallegos.

(President in Chair)

Senator Nelson offered the following amendment to the bill:

Floor Amendment No. 4

Amend **CSHB 3560** (Senate committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter H, Chapter 2155, Government Code, is amended by adding Section 2155.452 to read as follows:

Sec. 2155.452. PREFERENCE FOR CONTRACTORS PROVIDING FOODS OF HIGHER NUTRITIONAL VALUE. (a) The commission and state agencies making purchases of food for consumption in a public cafeteria may give preference to contractors who provide foods of higher nutritional value and who do not provide foods containing trans fatty acids for consumption in the cafeteria.

(b) In complying with this section, the commission and state agencies shall review the Department of Agriculture's nutrition standards.

The amendment to **CSHB 3560** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 4 except as follows:

Absent-excused: Gallegos.

Senator Williams offered the following amendment to the bill:

Floor Amendment No. 5

Amend **CSHB 3560** by adding the following SECTIONS, numbered appropriately, and by renumbering any subsequent SECTIONS accordingly:

SECTION _____. Section 2155.003, Government Code, is amended to read as follows:

Sec. 2155.003. CONFLICT OF INTEREST. (a) The chief clerk or any other [A commission member,] employee of the comptroller [, or appointee] may not:

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

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

(b) The chief clerk or any other [A commission member,] employee of the comptroller [, or appointee] who violates Subsection (a)(2) is subject to dismissal.

(c) In consultation with the comptroller, the Texas Ethics Commission shall adopt rules to implement this section.

(d) The Texas Ethics Commission shall administer and enforce this section and may prepare written opinions regarding this section in accordance with Subchapter D, Chapter 571.

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

SECTION _____. Subchapter B, Chapter 403, Government Code, is amended by adding Section 403.031 to read as follows:

Sec. 403.031. APPROVAL BY COMPTROLLER. A public agency as defined under Section 30.003(3), Water Code may not enter into a contract as provided by Subchapter C, Chapter 2254, Government Code, without review and approval by the comptroller.

SECTION _____. Subchapter B, Chapter 2155, Government Code, is amended by adding Sections 2155.086 and 2155.087 to read as follows:

Sec. 2155.086. PROCEDURES FOR AWARDED CERTAIN CONTRACTS. (a) In this section and in Section 2155.087, "chief clerk" means the chief clerk of the comptroller or the chief clerk's designee.

(b) This section applies only to the award of a contract by the comptroller that:

(1) relates to the powers and duties transferred to the comptroller under Section 2151.004(d);

(2) is reasonably expected by the comptroller at the time of the award to have a value of \$100,000 or more over the life of the contract; and

(3) is evaluated based wholly or partly on best value factors other than costs.

(c) This section does not apply to:

(1) any part of the contracting process other than the award, including planning, budgeting, solicitation, pre-response conference, respondent presentation, evaluation, development of staff or evaluation committee recommendations, negotiation, and signature;

(2) a renewal, extension, or amendment of a contract provided for in the written solicitation for the original contract; or

(3) an emergency purchase or other contract award for which delay would create a hazard to life, health, safety, welfare, or property or would cause undue additional cost to the state.

(d) A contract to which this section applies must be awarded in a public meeting chaired and conducted by the chief clerk. The chief clerk shall determine the time and location for the meeting. The meeting must comply with applicable provisions of Chapter 551, including requirements relating to posting notice of the meeting. The comptroller shall also post notice of the meeting on the comptroller's website and in the state business daily. The office of the attorney general shall advise the comptroller on the applicable provisions of Chapter 551.

(e) Before the meeting, the chief clerk may review any written recommendations for the proposed contract award submitted by the comptroller's staff or by an evaluation committee established by the comptroller for the proposed contract. The chief clerk shall make the staff's or committee's final written recommendations available to the public at the meeting.

(f) A contract awarded by the chief clerk under this section is not considered final and does not bind the state until all negotiations are completed, if applicable, and all parties to the contract have signed the final contract.

(g) The comptroller shall post notice of a contract award made in an open meeting under this section on the comptroller's website and in the state business daily.

(h) The comptroller shall post the text of a contract awarded in an open meeting under this section on the comptroller's website and in the state business daily, except for information in a contract that is not subject to disclosure under Chapter 552. Information that is not subject to disclosure under Chapter 552 must be referenced in an appendix that generally describes the information without disclosing the specific content of the information.

The amendment to **CSHB 3560** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 5 except as follows:

Absent-excused: Gallegos.

Senator Zaffirini offered the following amendment to the bill:

Floor Amendment No. 6

Amend **CSHB 3560** by adding the following appropriately number SECTIONS to read as follows:

SECTION ____. Subsection (a), Section 2113.102, Government Code, is amended to read as follows:

(a) A state agency may not use appropriated money to contract with a person to audit ~~[the financial records or accounts of]~~ the agency except:

(1) as provided by[+]

~~[(+)]~~ Subsections (b), (c), and (d); and

(2) in accordance with Section 321.020 ~~[Chapter 466, pertaining to the state~~

~~lottery;~~

~~[(3) Chapter 2306, pertaining to the Texas Department of Housing and Community Affairs; and~~

~~[(4) Chapter 361, Transportation Code, pertaining to the Texas Turnpike Authority division of the Texas Department of Transportation].~~

SECTION ____. Subsection (a), Section 2162.103, Government Code, is amended to read as follows:

(a) In comparing the cost of providing a service, the council shall consider the:

(1) cost of supervising the work of a private contractor; ~~and~~

(2) cost of a state agency's performance of the service, including:

(A) the costs of the comptroller, attorney general, and other support agencies; and

(B) other indirect costs related to the agency's performance of the service;

(3) installation costs and any other initial costs associated with a contract with a private contractor;

(4) other costs associated with the transition to using a private contractor's goods or services; and

(5) cost savings to the state if a private contractor were awarded the contract.

SECTION ____. Section 2177.052, Government Code, is amended by amending Subsections (b), (c), and (f) and adding Subsection (g) to read as follows:

(b) Each state agency shall provide the commission:

(1) copies of the following documents:

(A) ~~(+)~~ each major contract entered into by the agency; and

(B) ~~(2)~~ each request for proposal, invitation to bid, or comparable solicitation related to the major contract; and

(2) information regarding each major contract entered into by the agency, including:

(A) the name of the contractor;

(B) the contract value;

(C) the beginning date and end date of the contract;

(D) a description of any amendments made to the contract;

(E) cumulative payments and encumbrances under the contract;

(F) key contract terms that are out of compliance in terms of timeliness standards; and

(G) any other information that the commission considers necessary.

(c) The commission shall include in the information posted on the electronic procurement marketplace:

(1) each major contract of a state agency, including the commission; ~~and~~

(2) each request for proposal, invitation to bid, or comparable solicitation related to the major contract; and

(3) information provided to the commission under Subsection (b)(2) regarding a major contract.

(f) The commission shall make the information searchable by contract value, state agency, ~~and~~ vendor, and date, including both the beginning date and the end date of the contract. The commission may make the information searchable by other subjects as appropriate.

(g) The commission shall set appropriate criteria to determine when and what information should be updated.

SECTION _____. Section 2262.001, Government Code, is amended by amending Subdivisions (3) and (4) and adding Subdivision (3-a) to read as follows:

(3) "Contract manager" means a person who:

(A) is employed by a state agency; and

(B) has significant contract management duties for the state agency [~~as determined by the agency in consultation with the state auditor~~].

(3-a) "Executive director" means the administrative head of a state agency.

(4) "Major contract" means a contract, including a renewal of a contract, that has a value of at least \$1 million.

SECTION _____. Subchapter A, Chapter 2262, Government Code, is amended by adding Section 2262.0015 to read as follows:

Sec. 2262.0015. APPLICABILITY TO CERTAIN CONTRACTS. (a) The commission by rule shall establish threshold requirements that exclude small or routine contracts, including purchase orders, from the application of this chapter.

(b) This chapter does not apply to an enrollment contract described by 1 T.A.C. Section 391.183 as that section existed on May 1, 2007.

SECTION _____. The heading to Section 2262.053, Government Code, is amended to read as follows:

Sec. 2262.053. TRAINING FOR CONTRACT MANAGERS.

SECTION _____. Section 2262.053, Government Code, is amended by amending Subsections (a) and (d) and adding Subsections (e), (f), and (g) to read as follows:

(a) In coordination with the comptroller, Department of Information Resources, ~~and~~ state auditor, and Health and Human Services Commission, the commission or a private vendor selected by the commission shall develop ~~or administer~~ a training program for contract managers.

(d) ~~The commission [Texas Building and Procurement Commission]~~ shall administer the training program under this section.

(e) The commission shall certify contract managers who have completed the contract management training required under this section and keep a list of those contract managers.

(f) The program developed under this section must include a separate class on ethics and contracting.

(g) A state agency or educational entity may develop qualified contract manager training to supplement the training required under this section. The commission may incorporate the training developed by the agency or entity into the training program under this section.

SECTION _____. Subchapter B, Chapter 2262, Government Code, is amended by adding Section 2262.0535 and Sections 2262.055 through 2262.066 to read as follows:

Sec. 2262.0535. TRAINING FOR GOVERNING BODIES. (a) The commission or a private vendor selected by the commission shall adapt the program developed under Section 2262.053 to develop an abbreviated program for training the members of the governing bodies of state agencies. The training may be provided together with other required training for members of state agency governing bodies.

(b) All members of the governing body of a state agency shall complete at least one course of the training developed under this section. This subsection does not apply to a state agency that does not enter into any contracts.

Sec. 2262.055. FEES FOR TRAINING. The commission shall set and collect a fee from state agencies that receive training under this subchapter in an amount that recovers the commission's costs for the training.

Sec. 2262.056. STATE AGENCY REPOSITORY. Each state agency shall maintain in a central location all contracts for that agency.

Sec. 2262.057. REPORTING CONTRACTOR PERFORMANCE. (a) After a contract is completed or otherwise terminated, each state agency shall review the contractor's performance under the contract.

(b) Using the forms developed by the team under Sections 2262.104 and 2262.105, the state agency shall report to the commission on the results of the review regarding the contractor's performance under the contract.

Sec. 2262.058. CONTRACTOR PERFORMANCE DATABASE. (a) The commission shall store in a database contractor performance reviews as provided by this section.

(b) The commission shall evaluate the contractor's performance based on the information reported under Section 2262.057 and criteria established by the commission.

(c) The commission shall establish an evaluation process that allows vendors who receive an unfavorable performance review to protest any classification given by the commission.

(d) The commission shall develop a database that incorporates the performance reviews and aggregates the reviews for each contractor.

(e) A state agency may use the performance review database to determine whether to award a contract to a contractor reviewed in the database.

Sec. 2262.059. EXCLUDING CONTRACTOR FROM SOLICITATION PROCESS. Based on its own contractor performance reviews and on information in the database developed under Section 2262.058, a state agency may exclude a contractor from the solicitation process for a contract if the agency determines the contractor has performed poorly on a previous state contract without regard to whether the contractor has been barred under Section 2155.077.

Sec. 2262.060. PERFORMANCE MEASURES; REPORTS. (a) Each state agency shall develop a plan for incorporating performance measures into all contracts entered into by the agency. This includes ensuring that performance measures are written into each contract prior to execution.

(b) Not later than March 1 of each year, each state agency shall report to the team, governor, lieutenant governor, and speaker of the house of representatives regarding performance measures in the agency's contracts. The report must describe the agency's efforts to include performance-based provisions in the agency's contracts.

(c) The state agency shall make the report accessible to the public on the agency's website.

Sec. 2262.061. CONTRACT MANAGERS. (a) Each state agency that enters into contracts other than interagency contracts shall establish a career ladder program for contract management in the agency.

(b) An employee hired as a contract manager may engage in procurement planning, contract solicitation, contract formation, price establishment, and other contract activities.

(c) Each state agency shall determine, in consultation with the state auditor, the amount and significance of contract management duties sufficient for an employee to be considered a contract manager under this chapter.

Sec. 2262.062. APPROVAL OF CONTRACTS. (a) Each state agency shall establish formal guidelines regarding who may approve a contract for the agency.

(b) Each state agency shall adopt administrative rules to establish a monetary threshold above which agency contracts and amendments to or extensions of agency contracts require written authorization by the agency executive director.

(c) For state agency contracts valued in excess of \$1 million the agency executive director must authorize a contract amendment in writing.

(d) Each state agency shall annually report to the commission a list of each person authorized to approve contracts at the agency. The list must include the person's name, position, and supervisory responsibility, if any.

Sec. 2262.063. NEGOTIATION OF CONTRACT BY SINGLE EMPLOYEE PROHIBITED. A state agency may not negotiate a contract with only one employee engaging in the negotiation.

Sec. 2262.064. DEVELOPMENT OF OPTIMIZED MODEL FOR CERTAIN CONTRACTS. (a) If a state agency determines that a proposed contract or proposed contract extension or amendment would outsource existing services or functions performed by the agency that have a value of \$10 million or more, or that would lead to the loss of 100 or more existing state employee positions, the agency shall create an optimized model for the identified functions or services to determine how and at what cost the agency could most efficiently provide the functions or services.

(b) The model must show consideration of all relevant factors, including:

(1) best practices in Texas and other states;

(2) available technology;

(3) access to benefits and services for clients;

(4) program integrity; and

(5) assessment of state agency skills available throughout the life of the

project.

(c) An agency that develops an optimized model under this section shall use it as the basis for cost comparison when deciding whether to outsource the identified functions or services.

(d) A model developed under this section is confidential and is not subject to disclosure under Chapter 552 until a final determination has been made to award the contract for which the model was developed.

Sec. 2262.065. ANALYSIS OF SERVICES AND FUNCTIONS. (a) In this section, "inherently governmental in nature" means a function or service that involves the exercise or use of governmental authority or discretion.

(b) If a state agency determines that a proposed contract or proposed contract extension or amendment would outsource existing services or functions performed by the agency that have a value of \$10 million or more, or would lead to the loss of 100 or more existing state employee positions, then before the agency may issue a competitive solicitation for the contract or amend or extend the contract the agency shall contract with the State Council on Competitive Government for its staff to perform an analysis to determine if any of the services or functions to be performed under the contract or contract extension or amendment are inherently governmental in nature.

(c) Except as provided by Subsection (e), if the State Council on Competitive Government determines that a service or function to be performed under the contract or contract extension or amendment is inherently governmental in nature, the state agency may not:

(1) contract with a private entity to perform the service or function; or

(2) amend or extend the contract, if a private entity is to perform the service or function under the contract extension or amendment.

(d) The analysis required under this section must use the standards and policies contained in the Office of Federal Procurement Policy, Policy Letter 92-1, or comparable guidelines developed by the State Council on Competitive Government.

(e) A state agency may contract with a private entity to perform a service or function or amend or extend an existing contract to allow a private entity to perform a service or function that the State Council on Competitive Government determines to be inherently governmental in nature if the chief administrative officer of the agency issues a report stating that there is a compelling state interest in outsourcing the service or function.

Sec. 2262.066. FULL AND FAIR COST COMPARISON. (a) If a state agency determines that a proposed contract or proposed contract extension or amendment would outsource existing services or functions performed by the agency that have a value of \$10 million or more, or that would lead to the loss of 100 or more existing state employee positions, the agency shall:

(1) conduct a full and fair cost comparison to determine whether a private entity could perform the service or function with a comparable or better level of quality at a cost savings to the state; and

(2) prepare a business case providing the initial justification for the proposed contract or proposed contract extension or amendment that includes:

(A) the results of the comparison required under Subdivision (1); and

(B) the anticipated return on investment in terms of cost savings and efficiency for the proposed contract or proposed contract extension or amendment.

(b) To perform the comparison required by Subsection (a)(1), a state agency may:

(1) contract with the State Council on Competitive Government to have its staff perform the comparison; or

(2) use the methodology provided in Section 2162.103.

(c) A state agency shall submit the business case required under Subsection (a)(2) to the governor, lieutenant governor, speaker of the house of representatives, Legislative Budget Board, and standing committees of the legislature that have primary jurisdiction over the agency, over state appropriations, and over state purchasing.

SECTION ____. Section 2262.101, Government Code, is amended to read as follows:

Sec. 2262.101. CREATION; DUTIES. (a) The Contract Advisory Team is created to assist state agencies in improving contract management practices by:

(1) ~~reviewing the solicitation of major contracts by state agencies;~~
~~(2)~~ reviewing any findings or recommendations made by the state auditor, including those made under Section 2262.052(b), regarding a state agency's compliance with the contract management guide; ~~and~~

(2) ~~(3)~~ providing recommendations to the commission regarding:

(A) the development of the contract management guide; and

(B) the training under Section 2262.053; and

(3) certifying that state agencies have complied with Sections 2262.064 and 2262.066.

(b) The team shall consult with state agencies in developing forms, contract terms, guidelines, and criteria required under this chapter.

SECTION ____. Subsection (a), Section 2262.102, Government Code, is amended to read as follows:

(a) The team consists of the following six ~~five~~ members:

(1) one member from the attorney general's office;

(2) one member from the comptroller's office;

(3) one member from the Department of Information Resources;

(4) one member from the Texas Building and Procurement Commission;

~~and~~

(5) one member from the governor's office; and

(6) one member from the State Council on Competitive Government.

SECTION ____. Subchapter C, Chapter 2262, Government Code, is amended by adding Sections 2262.104 and 2262.105 to read as follows:

Sec. 2262.104. UNIFORM DEFINITIONS AND FORMS. (a) The team shall develop and publish a uniform set of definitions for use as applicable in state contracts.

(b) The team shall develop and publish a uniform and automated set of forms that a state agency may use in the different stages of the contracting process.

Sec. 2262.105. FORMS FOR REPORTING CONTRACTOR PERFORMANCE. As part of the uniform forms published under Section 2262.104, the team shall develop forms for use by state agencies in reporting a contractor's performance under Section 2262.057.

SECTION ____. Chapter 2262, Government Code, is amended by adding Subchapters D, E, F, and G to read as follows:

SUBCHAPTER D. CONTRACT PROVISIONS

Sec. 2262.151. USE OF UNIFORM FORMS. A state agency may use the forms developed under Section 2262.104 as templates, guides, or samples for contracts entered into by the agency.

Sec. 2262.152. CONTRACT TERMS RELATING TO NONCOMPLIANCE.

(a) The team shall develop recommendations for contract terms regarding penalties for contractors who do not comply with a contract, including penalties for contractors who do not disclose conflicts of interest under Section 2262.201. The team may develop recommended contract terms that are generally applicable to state contracts and terms that are applicable to important types of state contracts.

(b) A state agency may include applicable recommended terms in a contract entered into by the agency.

Sec. 2262.153. REQUIRED PROVISION RELATING TO SUBCONTRACTOR COMPLIANCE. Each state agency contract must require that each contractor provide a list of all subcontractors for the contract and include a provision that:

(1) holds the contractor responsible for the conduct of all subcontractors in complying with the contractor's contract with the state agency; and

(2) requires each subcontractor to disclose all potential conflicts of interest to the state agency, according to guidelines developed under Section 2262.201(b), when the subcontractor contracts with or is otherwise hired by the contractor.

Sec. 2262.154. REQUIRED CONTRACTOR DISCLOSURE STATEMENT; STATE AGENCY EMPLOYEES. Before entering into a contract with the state, a contractor and subcontractor shall disclose each employee:

(1) who was employed by:

(A) the state at any time during the two years before the date of the disclosure and is now employed by the contractor or subcontractor; or

(B) the contractor or subcontractor at any time during the year before the date of the disclosure and is now employed by the state; and

(2) who is materially involved in the development of the contract terms or the management of the contract.

Sec. 2262.155. REQUIRED CONTRACTOR DISCLOSURE STATEMENT; OUTSOURCING. (a) Each contract entered into by a state agency must include a provision requiring disclosure of any services materially necessary to fulfill the contract, including services performed by a subcontractor, that will be or are performed in a country other than the United States. This section does not apply to services that are occasional, minor, or incidental to fulfilling the contract.

(b) The contract must include a provision allowing the state agency to terminate the contract and solicit a new contract, except as provided by Subsection (d), if:

(1) the contractor or a subcontractor of the contractor performs a service materially necessary to fulfill the contract in a country other than the United States; and

(2) the contractor does not disclose in the contract that the service will be performed in a country other than the United States.

(c) A state agency that decides not to solicit a new contract under circumstances in which the agency is authorized to do so under a contract provision required by Subsection (b) shall report this decision to:

- (1) the governor;
- (2) the lieutenant governor;
- (3) the speaker of the house of representatives; and
- (4) the team.

(d) A contractor may replace a subcontractor without termination of a contract under this section if the contractor determines that the subcontractor is performing a service materially necessary to fulfill the contract in a country other than the United States and did not disclose that fact to the contractor.

Sec. 2262.156. HIRING PREFERENCE PROVISION FOR CERTAIN LARGE CONTRACTS. If a state agency determines that a proposed contract or proposed contract extension or amendment would outsource existing services or functions performed by the agency that have a value of \$10 million or more, or that would lead to the loss of 100 or more existing state employee positions, the contract or contract amendment must contain a provision that requires the contractor to give preference in hiring to former employees of a state agency:

- (1) whose employment is terminated because of the contract or contract extension or amendment;
- (2) who satisfy the contractor's hiring criteria for that position; and
- (3) whose salary requirements are competitive with market rates for positions with equivalent skills and experience.

SUBCHAPTER E. ETHICS; CONFLICT OF INTEREST

Sec. 2262.201. CONTRACTOR CONFLICTS OF INTEREST. (a) Each contractor who responds to a state agency's contract solicitation shall disclose in its response all potential conflicts of interest to the agency.

(b) The team shall develop guidelines to aid contractors and state agencies in identifying potential conflicts of interest.

Sec. 2262.202. EXECUTIVE DIRECTORS; ETHICS IN CONTRACTING CLASS. Each executive director of a state agency shall annually complete the ethics and contracting class developed under Section 2262.053(f). This section does not apply to a state agency that does not enter into any contracts.

SUBCHAPTER F. CHANGES TO CONTRACTS

Sec. 2262.251. CONTRACT AMENDMENTS, EXTENSIONS, AND CHANGE ORDERS. (a) An extension of or amendment to a contract, including a change order, is subject to the same approval processes as the original contract.

(b) A state agency may not extend or amend a contract unless:

- (1) the agency complies with the same approval processes for the extension or amendment as required for the original contract; and
- (2) a contract manager for the agency states in writing why the extension or amendment is necessary.

(c) This section does not affect whether a state agency is required to undertake a new solicitation process in the manner required for a new contract in order to extend or amend a contract.

Sec. 2262.252. LARGE CHANGE IN CONTRACT VALUE. (a) If a proposed contract amendment or extension changes the monetary value of a contract by \$1 million or more, the state agency must obtain review and approval from the team and the agency's executive director before the agency amends or extends the contract.

(b) This section does not apply to a proposed contract amendment required by a state or federal statute.

Sec. 2262.253. CERTAIN CONTRACT EXTENSIONS. This subchapter does not apply to contract extensions that are specifically established as a component of the original procurement.

SUBCHAPTER G. STATE OFFICE OF CONTRACT MANAGEMENT

Sec. 2262.301. DEFINITIONS. In this subchapter:

(1) "High-risk contract" means a state agency contract that:

(A) has a value of at least \$10 million; or

(B) has a value of less than \$10 million, but has high-risk factors as identified by the office.

(2) "Major information resources project" has the meaning assigned by Section 2054.003(10).

(3) "Office" means the state office of contract management.

(4) "Quality assurance team" means the quality assurance team established under Section 2054.158.

(5) "Solicitation" means a solicitation for bids, offers, qualifications, proposals, or similar expressions of interest for a high-risk contract.

Sec. 2262.302. ESTABLISHMENT; GENERAL DUTIES. The commission shall establish a state office of contract management to:

(1) develop criteria for identifying high-risk factors in contracts;

(2) review and approve an action related to a high-risk contract as provided by Section 2262.303;

(3) provide recommendations and assistance to state agency personnel throughout the contract management process; and

(4) coordinate and consult with the quality assurance team on all high-risk contracts relating to a major information resources project.

Sec. 2262.303. REVIEW AND APPROVAL; WAIVER. (a) Each state agency must receive approval from the office before taking the following actions in relation to a high-risk contract:

(1) publicly releasing solicitation documents;

(2) executing a final contract; and

(3) making a payment or a series of payments that equal half of the contract value.

(b) In determining whether to approve an action described by Subsection (a), the office shall review related documentation to ensure that potential risks related to the high-risk contract have been identified and mitigated.

(c) The commission by rule may adopt criteria for waiving the review and approval requirements under Subsections (a) and (b).

Sec. 2262.304. SOLICITATION AND CONTRACT CANCELLATION. After review of and comment on the matter by the Legislative Budget Board and the governor, the office may recommend the cancellation of a solicitation or a contract during the review process under Section 2262.303 if:

- (1) a proposed solicitation is not in the best interest of the state;
- (2) a proposed contract would place the state at an unacceptable risk if executed; or
- (3) an executed contract is experiencing performance failure or payment irregularities.

SECTION ____ . Section 2262.003, Government Code, is transferred to Subchapter D, Chapter 2262, Government Code, as added by this Act, is redesignated as Section 2262.157, Government Code, and is amended to read as follows:

Sec. 2262.157 [2262.003]. REQUIRED [CONTRACT] PROVISION RELATING TO AUDITING. (a) Each state agency shall include in each of its contracts a term that provides that:

- (1) the state auditor may conduct an audit or investigation of any entity receiving funds from the state directly under the contract or indirectly through a subcontract under the contract;
- (2) acceptance of funds directly under the contract or indirectly through a subcontract under the contract acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds; and
- (3) under the direction of the legislative audit committee, an entity that is the subject of an audit or investigation by the state auditor must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.

(b) The state auditor shall provide assistance to a state agency in developing the contract provisions.

SECTION ____ . Section 51.923, Education Code, is amended to read as follows:

Sec. 51.923. QUALIFICATIONS OF CERTAIN BUSINESS ENTITIES TO ENTER INTO CONTRACTS WITH AN INSTITUTION OF HIGHER EDUCATION. (a) In this section:

(1) "Business entity [~~Corporation~~]" means any entity recognized by law through which business for profit is conducted, including a sole proprietorship, partnership, firm, corporation, limited liability company, holding company, joint stock company, receivership, or trust [~~a corporation for profit organized under the laws of this state or under laws other than the laws of this state~~].

(2) "Governing board" has the meaning assigned by Section 61.003 of this code.

(3) "Institution of higher education" has the meaning assigned by Section 61.003 of this code.

(4) "Nonprofit corporation" means any organization exempt from federal income tax under Section 501 of the Internal Revenue Code of 1986 that does not distribute any part of its income to any member, director, or officer.

(b) A nonprofit corporation is not disqualified from entering into a contract or other transaction with an institution of higher education even though one or more members of the governing board of the institution of higher education also serves as a member, ~~or~~ director, or officer of the nonprofit corporation.

(c) A business entity ~~(corporation)~~ is not disqualified from entering into a contract or other transaction with an institution of higher education even though one or more members of the governing board of the institution of higher education has a substantial interest in the business entity ~~[also serves as a stockholder or director of the corporation provided that no member of the governing board owns or has a beneficial interest in more than five percent of the corporation's outstanding capital stock and further provided that the contract or transaction is:~~

- ~~(1) an affiliation, licensing, or sponsored research agreement; or~~
- ~~(2) awarded by competitive bidding or competitive sealed proposals].~~

(d) An institution of higher education is not prohibited from entering into a contract or other transaction with a business entity in which a member of the governing board of the institution of higher education has a substantial interest ~~[described in this section] if the [any] board member [having an interest described in this section in the contract or transaction]~~ discloses that interest in a meeting held in compliance with Chapter 551, Government Code, and refrains from voting on the contract or transaction. Any such contract or transaction requiring board approval must be approved by an affirmative majority of the board members voting on the contract or transaction.

(e) For purposes of this section, a member of a governing board has a substantial interest in a business entity if:

(1) the member owns 10 percent or more of the voting stock or shares of the business entity or owns either 10 percent or more or \$15,000 or more of the fair market value of the business entity;

(2) funds received by the member from the business entity exceed 10 percent of the member's gross income for the previous year; or

(3) an individual related to the member in the first degree by consanguinity or affinity, as determined under Chapter 573, Government Code, has an interest in the business entity as described by Subdivision (1) or (2).

(f) A violation of this section does not render an action of the governing board voidable unless the contract or transaction that was the subject of the action would not have passed the governing board without the vote of the member who violated this section.

(g) This section preempts the common law of conflict of interests as applied to members of a governing board of an institution of higher education.

SECTION ____. Subsection (f), Section 2262.051, Government Code, is repealed.

SECTION ____. (a) Sections 2262.063 through 2262.066 and 2262.154, Government Code, and Subchapter G, Chapter 2262, Government Code, as added by this Act, apply only to a contract for which a state agency first advertises or otherwise solicits bids, proposals, offers, or qualifications on or after the effective date of this Act.

(b) Subsection (a), Section 2262.201, Government Code, as added by this Act, applies only in relation to a contract for which a state agency first solicits bids, proposals, offers, or qualifications on or after the date that the Contract Advisory Team's guidelines regarding potential conflicts of interest take effect.

SECTION ____. Not later than May 1, 2008, the Texas Building and Procurement Commission shall develop the training program, including the ethics and contracting class, required by Section 2262.053, Government Code, as amended by this Act, and Section 2262.0535, Government Code, as added by this Act.

SECTION ____. A member of a governing body of a state agency is not required to complete the training developed under Section 2262.0535, Government Code, as added by this Act, until September 1, 2009.

SECTION ____. An executive director of a state agency is not required to comply with Section 2262.202, Government Code, as added by this Act, until September 1, 2009.

SECTION ____. A contract manager is not required to be certified under Chapter 2262, Government Code, as amended by this Act, until September 1, 2009.

SECTION ____. (a) As soon as practicable, and not later than May 1, 2008, the Contract Advisory Team shall develop the forms, criteria, recommendations, and provisions required by this Act, including Sections 2262.104, 2262.105, and 2262.152 and Subsection (b), 2262.201, Government Code, as added by this Act.

(b) A state agency is not required to comply with Sections 2262.056 through 2262.062 and Sections 2262.153, 2262.155, and 2262.156, Government Code, as added by this Act, until September 1, 2009. A state agency may comply earlier if the forms, electronic requirements, database, or other items are available before that date.

The amendment to **CSHB 3560** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 6 except as follows:

Absent-excused: Gallegos.

Senator Janek offered the following amendment to the bill:

Floor Amendment No. 7

Amend **CSHB 3560** by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION ____. Subtitle B, Title 8, Health and Safety Code, is amended by adding Chapter 692A to read as follows:

CHAPTER 692A. REVISED UNIFORM ANATOMICAL GIFT ACT

Sec. 692A.001. SHORT TITLE. This chapter may be cited as the Revised Uniform Anatomical Gift Act.

Sec. 692A.002. DEFINITIONS. In this chapter:

(1) "Adult" means an individual who is at least 18 years of age.

(2) "Agent" means an individual:

(A) authorized to make health care decisions on the principal's behalf by a medical power of attorney; or

(B) expressly authorized to make an anatomical gift on the principal's behalf by any other record signed by the principal.

(3) "Anatomical gift" means a donation of all or part of a human body to take effect after the donor's death for the purpose of transplantation, therapy, research, or education.

(4) "Commissioner" means the commissioner of state health services.

(5) "Decedent" means a deceased individual whose body or part is or may be the source of an anatomical gift. The term includes a stillborn infant and, subject to restrictions imposed by law other than this chapter, a fetus.

(6) "Department" means the Department of State Health Services.

(7) "Disinterested witness" means a witness other than the spouse, child, parent, sibling, grandchild, grandparent, or guardian of the individual who makes, amends, revokes, or refuses to make an anatomical gift, or another adult who exhibited special care and concern for the individual. The term does not include a person to which an anatomical gift could pass under Section 692A.011.

(8) "Document of gift" means a donor card or other record used to make an anatomical gift. The term includes a statement or symbol on a driver's license, identification card, or donor registry.

(9) "Donor" means an individual whose body or part is the subject of an anatomical gift.

(10) "Donor registry" means a database that contains records of anatomical gifts and amendments to or revocations of anatomical gifts.

(11) "Driver's license" means a license or permit issued by the Department of Public Safety to operate a vehicle, whether or not conditions are attached to the license or permit.

(12) "Eye bank" means a person that is licensed, accredited, or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage, or distribution of human eyes or portions of human eyes.

(13) "Guardian" means a person appointed by a court to make decisions regarding the support, care, education, health, or welfare of an individual. The term does not include a guardian ad litem.

(14) "Hospital" means a facility licensed as a hospital under the law of any state or a facility operated as a hospital by the United States, a state, or a subdivision of a state.

(15) "Identification card" means an identification card issued by the Department of Public Safety.

(16) "Imminent death" means a patient who requires mechanical ventilation, has a severe neurologic injury, and meets certain clinical criteria indicating that neurologic death is near or a patient for whom withdrawal of ventilatory support is being considered.

(17) "Know" means to have actual knowledge.

(18) "Minor" means an individual who is under 18 years of age.

(19) "Organ procurement organization" means a person designated by the secretary of the United States Department of Health and Human Services as an organ procurement organization.

(20) "Parent" means a parent whose parental rights have not been terminated.

(21) "Part" means an organ, an eye, or tissue of a human being. The term does not include the whole body.

(22) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(23) "Physician" means an individual authorized to practice medicine or osteopathy under the law of any state.

(24) "Procurement organization" means an eye bank, organ procurement organization, or tissue bank.

(25) "Prospective donor" means an individual who is dead or near death and has been determined by a procurement organization to have a part that could be medically suitable for transplantation, therapy, research, or education. The term does not include an individual who has made a refusal.

(26) "Reasonably available" means able to be contacted by a procurement organization without undue effort and willing and able to act in a timely manner consistent with existing medical criteria necessary for the making of an anatomical gift.

(27) "Recipient" means an individual into whose body a decedent's part has been or is intended to be transplanted.

(28) "Record" 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.

(29) "Refusal" means a record created under Section 692A.007 that expressly states an intent to bar other persons from making an anatomical gift of an individual's body or part.

(30) "Sign" means, with the present intent to authenticate or adopt a record:

(A) to execute or adopt a tangible symbol; or

(B) to attach to or logically associate with the record an electronic symbol, sound, or process.

(31) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(32) "Technician" means an individual determined to be qualified to remove or process parts by an appropriate organization that is licensed, accredited, or regulated under federal or state law. The term includes an enucleator.

(33) "Timely notification" means notification of an imminent death to the organ procurement organization within one hour of the patient's meeting the criteria for imminent death and before the withdrawal of any life-sustaining therapies. With respect to cardiac death, timely notification means notification to the organ procurement organization within one hour of the cardiac death.

(34) "Tissue" means a portion of the human body other than an organ or an eye. The term does not include blood unless the blood is donated for the purpose of research or education.

(35) "Tissue bank" means a person licensed, accredited, or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage, or distribution of tissue.

(36) "Transplant hospital" means a hospital that furnishes organ transplants and other medical and surgical specialty services required for the care of transplant patients.

(37) "Visceral organ" means the heart, kidney, or liver or another organ or tissue that requires a patient support system to maintain the viability of the organ or tissue.

Sec. 692A.003. APPLICABILITY. This chapter applies to an anatomical gift or amendment to, revocation of, or refusal to make an anatomical gift, whenever made.

Sec. 692A.004. PERSONS AUTHORIZED TO MAKE ANATOMICAL GIFT BEFORE DONOR'S DEATH. Subject to Section 692A.008, an anatomical gift of a donor's body or part may be made during the life of the donor for the purpose of transplantation, therapy, research, or education in the manner provided in Section 692A.005 by:

(1) the donor, if the donor is an adult or if the donor is a minor and is:

(A) emancipated; or

(B) authorized under state law to apply for a driver's license because the donor is at least 16 years of age;

(2) an agent of the donor, unless the medical power of attorney or other record prohibits the agent from making an anatomical gift;

(3) a parent of the donor, if the donor is an unemancipated minor; or

(4) the donor's guardian.

Sec. 692A.005. MANNER OF MAKING ANATOMICAL GIFT BEFORE DONOR'S DEATH. (a) A donor may make an anatomical gift:

(1) by authorizing a statement or symbol indicating that the donor has made an anatomical gift to be imprinted on the donor's driver's license or identification card;

(2) in a will;

(3) during a terminal illness or injury of the donor, by any form of communication addressed to at least two adults, at least one of whom is a disinterested witness; or

(4) as provided in Subsection (b).

(b) A donor or other person authorized to make an anatomical gift under Section 692A.004 may make a gift by a donor card or other record signed by the donor or other person making the gift or by authorizing that a statement or symbol indicating the donor has made an anatomical gift be included on a donor registry. If the donor or other person is physically unable to sign a record, the record may be signed by another individual at the direction of the donor or other person and must:

(1) be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the donor or the other person; and

(2) state that the record has been signed and witnessed as provided in Subdivision (1).

(c) Revocation, suspension, expiration, or cancellation of a driver's license or identification card on which an anatomical gift is indicated does not invalidate the gift.

(d) An anatomical gift made by will takes effect on the donor's death whether or not the will is probated. Invalidation of the will after the donor's death does not invalidate the gift.

Sec. 692A.006. AMENDING OR REVOKING ANATOMICAL GIFT BEFORE DONOR'S DEATH. (a) Subject to Section 692A.008, a donor or other person authorized to make an anatomical gift under Section 692A.004 may amend or revoke an anatomical gift by:

(1) a record signed by:

(A) the donor;

(B) the other person; or

(C) subject to Subsection (b), another individual acting at the direction of the donor or the other person if the donor or other person is physically unable to sign; or

(2) a later-executed document of gift that amends or revokes a previous anatomical gift or portion of an anatomical gift, either expressly or by inconsistency.

(b) A record signed pursuant to Subsection (a)(1)(C) must:

(1) be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the donor or the other person; and

(2) state that the record has been signed and witnessed as provided in Subdivision (1).

(c) Subject to Section 692A.008, a donor or other person authorized to make an anatomical gift under Section 692A.004 may revoke an anatomical gift by the destruction or cancellation of the document of gift, or the portion of the document of gift used to make the gift, with the intent to revoke the gift.

(d) A donor may amend or revoke an anatomical gift that was not made in a will by any form of communication during a terminal illness or injury addressed to at least two adults, at least one of whom is a disinterested witness.

(e) A donor who makes an anatomical gift in a will may amend or revoke the gift in the manner provided for amendment or revocation of wills or as provided in Subsection (a).

Sec. 692A.007. REFUSAL TO MAKE ANATOMICAL GIFT; EFFECT OF REFUSAL. (a) An individual may refuse to make an anatomical gift of the individual's body or part by:

(1) a record signed by:

(A) the individual; or

(B) subject to Subsection (b), another individual acting at the direction of the individual if the individual is physically unable to sign;

(2) the individual's will, whether or not the will is admitted to probate or invalidated after the individual's death; or

(3) any form of communication made by the individual during the individual's terminal illness or injury addressed to at least two adults, at least one of whom is a disinterested witness.

(b) A record signed pursuant to Subsection (a)(1)(B) must:

(1) be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the individual; and

(2) state that the record has been signed and witnessed as provided in Subdivision (1).

(c) An individual who has made a refusal may amend or revoke the refusal:

(1) in the manner provided in Subsection (a) for making a refusal;

(2) by subsequently making an anatomical gift pursuant to Section 692A.005 that is inconsistent with the refusal; or

(3) by destroying or canceling the record evidencing the refusal, or the portion of the record used to make the refusal, with the intent to revoke the refusal.

(d) Except as otherwise provided in Section 692A.008(h), in the absence of an express, contrary indication by the individual set forth in the refusal, an individual's unrevoked refusal to make an anatomical gift of the individual's body or part bars all other persons from making an anatomical gift of the individual's body or part.

Sec. 692A.008. PRECLUSIVE EFFECT OF ANATOMICAL GIFT, AMENDMENT, OR REVOCATION. (a) Except as otherwise provided in Subsection (g) and subject to Subsection (f), in the absence of an express, contrary indication by the donor, a person other than the donor is barred from making, amending, or revoking an anatomical gift of a donor's body or part if the donor made an anatomical gift of the donor's body or part under Section 692A.005 or an amendment to an anatomical gift of the donor's body or part under Section 692A.006.

(b) A donor's revocation of an anatomical gift of the donor's body or part under Section 692A.006 is not a refusal and does not bar another person specified in Section 692A.004 or 692A.009 from making an anatomical gift of the donor's body or part under Section 692A.005 or 692A.010.

(c) If a person other than the donor makes an unrevoked anatomical gift of the donor's body or part under Section 692A.005 or an amendment to an anatomical gift of the donor's body or part under Section 692A.006, another person may not make, amend, or revoke the gift of the donor's body or part under Section 692A.010.

(d) A revocation of an anatomical gift of a donor's body or part under Section 692A.006 by a person other than the donor does not bar another person from making an anatomical gift of the body or part under Section 692A.005 or 692A.010.

(e) In the absence of an express, contrary indication by the donor or other person authorized to make an anatomical gift under Section 692A.004, an anatomical gift of a part is neither a refusal to give another part nor a limitation on the making of an anatomical gift of another part at a later time by the donor or another person.

(f) In the absence of an express, contrary indication by the donor or other person authorized to make an anatomical gift under Section 692A.004, an anatomical gift of a part for one or more of the purposes set forth in Section 692A.004 is not a limitation on the making of an anatomical gift of the part for any of the other purposes by the donor or any other person under Section 692A.005 or 692A.010.

(g) If a donor who is an unemancipated minor dies, a parent of the donor who is reasonably available may revoke or amend an anatomical gift of the donor's body or part.

(h) If an unemancipated minor who signed a refusal dies, a parent of the minor who is reasonably available may revoke the minor's refusal.

Sec. 692A.009. WHO MAY MAKE ANATOMICAL GIFT OF DECEDENT'S BODY OR PART. (a) Subject to Subsections (b) and (c) and unless barred by Section 692A.007 or 692A.008, an anatomical gift of a decedent's body or part for the purpose of transplantation, therapy, research, or education may be made by any member of the following classes of persons who is reasonably available, in the order of priority listed:

(1) an agent of the decedent at the time of death who could have made an anatomical gift under Section 692A.004(2) immediately before the decedent's death;

(2) the spouse of the decedent;

(3) adult children of the decedent;

(4) parents of the decedent;

(5) adult siblings of the decedent;

(6) adult grandchildren of the decedent;

(7) grandparents of the decedent;

(8) the persons who were acting as the guardians of the person of the decedent at the time of death;

(9) the hospital administrator; and

(10) any other person having the authority to dispose of the decedent's body.

(b) If there is more than one member of a class listed in Subsection (a)(1), (3), (4), (5), (6), (7), or (8) entitled to make an anatomical gift, an anatomical gift may be made by a member of the class unless that member or a person to which the gift may pass under Section 692A.011 knows of an objection by another member of the class. If an objection is known, the gift may be made only by a majority of the members of the class who are reasonably available.

(c) A person may not make an anatomical gift if, at the time of the decedent's death, a person in a prior class under Subsection (a) is reasonably available to make or to object to the making of an anatomical gift.

Sec. 692A.010. MANNER OF MAKING, AMENDING, OR REVOKING ANATOMICAL GIFT OF DECEDENT'S BODY OR PART. (a) A person authorized to make an anatomical gift under Section 692A.009 may make an anatomical gift by a document of gift signed by the person making the gift or by that person's oral communication that is electronically recorded or is contemporaneously reduced to a record and signed by the individual receiving the oral communication.

(b) Subject to Subsection (c), an anatomical gift by a person authorized under Section 692A.009 may be amended or revoked orally or in a record by any member of a prior class who is reasonably available. If more than one member of the prior class is reasonably available, the gift made by a person authorized under Section 692A.009 may be:

(1) amended only if a majority of the reasonably available members agree to the amending of the gift; or

(2) revoked only if a majority of the reasonably available members agree to the revoking of the gift or if they are equally divided as to whether to revoke the gift.

(c) A revocation under Subsection (b) is effective only if, before an incision has been made to remove a part from the donor's body or before the initiation of invasive procedures to prepare the recipient, the procurement organization, transplant hospital, or physician or technician knows of the revocation.

Sec. 692A.011. PERSONS THAT MAY RECEIVE ANATOMICAL GIFT; PURPOSE OF ANATOMICAL GIFT. (a) An anatomical gift may be made to the following persons named in the document of gift:

(1) a hospital or organ procurement organization for research or education;
(2) subject to Subsection (d), an individual designated by the person making the anatomical gift if the individual is the recipient of the part;

(3) an eye bank or tissue bank;

(4) a forensic science program at:

(A) a general academic teaching institution, as defined by Section 61.003(3), Education Code; or

(B) a private or independent institution of higher education, as defined by Section 61.003(15), Education Code; or

(5) the Anatomical Board of the State of Texas.

(b) Except for a donation to an organ procurement organization, eye bank, tissue bank, or forensic science program made for the purpose of therapy, transplantation, or research, the Anatomical Board of the State of Texas is the donee of a gift of a body or part made for purposes of education or research. The gift of the body or part is subject to distribution by the board under Chapter 691.

(c) A forensic science program that receives a donation under Subsection (a)(4) must submit a report to the Anatomical Board of the State of Texas on a quarterly basis that lists:

(1) the number of bodies or parts the program received; and

(2) the method in which the program used the bodies or parts for education or research purposes.

(d) If an anatomical gift to an individual under Subsection (a)(2) cannot be transplanted into the individual, the part passes in accordance with Subsection (i) in the absence of an express, contrary indication by the person making the anatomical gift.

(e) If an anatomical gift of one or more specific parts or of all parts is made in a document of gift that does not name a person described in Subsection (a) but identifies the purpose for which an anatomical gift may be used, the following rules apply:

(1) if the part is an eye and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate eye bank;

(2) if the part is tissue and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate tissue bank; and

(3) if the part is an organ and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate organ procurement organization as custodian of the organ.

(f) For the purpose of Subsection (e), if there is more than one purpose of an anatomical gift set forth in the document of gift but the purposes are not set forth in any priority, the gift must be used for transplantation or therapy, if suitable. If the gift cannot be used for transplantation or therapy, the gift may be used for research or education.

(g) If an anatomical gift of one or more specific parts is made in a document of gift that does not name a person described in Subsection (a) and does not identify the purpose of the gift, the gift may be used only for transplantation or therapy, and the gift passes in accordance with Subsection (i).

(h) If a document of gift specifies only a general intent to make an anatomical gift by words such as "donor," "organ donor," or "body donor," or by a symbol or statement of similar import, the gift may be used only for transplantation or therapy, and the gift passes in accordance with Subsection (i).

(i) For purposes of Subsections (d), (g), and (h), the following rules apply:

(1) if the part is an eye, the gift passes to the appropriate eye bank;

(2) if the part is tissue, the gift passes to the appropriate tissue bank; and

(3) if the part is an organ, the gift passes to the appropriate organ procurement organization as custodian of the organ.

(j) An anatomical gift of an organ for transplantation or therapy, other than an anatomical gift under Subsection (a)(2), passes to the organ procurement organization as custodian of the organ.

(k) If an anatomical gift does not pass pursuant to Subsections (a)-(j) or the decedent's body or part is not used for transplantation, therapy, research, or education, custody of the body or part passes to the person under obligation to dispose of the body or part.

(l) A person may not accept an anatomical gift if the person knows that the gift was not effectively made under Section 692A.005 or 692A.010 or if the person knows that the decedent made a refusal under Section 692A.007 that was not revoked. For purposes of this subsection, if a person knows that an anatomical gift was made on a document of gift, the person is deemed to know of any amendment or revocation of the gift or any refusal to make an anatomical gift on the same document of gift.

(m) Except as otherwise provided in Subsection (a)(2), nothing in this chapter affects the allocation of organs for transplantation or therapy.

(n) A donee may accept or reject a gift.

Sec. 692A.012. SEARCH AND NOTIFICATION. The donor card of a person who is involved in an accident or other trauma shall accompany the person to the hospital or other health care facility. The driver's license or personal identification certificate indicating an affirmative statement of gift of a person who is involved in an accident or other trauma shall accompany the person to the hospital or health care facility if the person does not have a donor card.

Sec. 692A.013. DELIVERY OF DOCUMENT OF GIFT NOT REQUIRED; RIGHT TO EXAMINE. (a) A document of gift need not be delivered during the donor's lifetime to be effective.

(b) On or after an individual's death, a person in possession of a document of gift or a refusal to make an anatomical gift with respect to the individual shall allow examination and copying of the document of gift or refusal by a person authorized to make or object to the making of an anatomical gift with respect to the individual or by a person to which the gift could pass under Section 692A.011.

Sec. 692A.014. RIGHTS AND DUTIES OF PROCUREMENT ORGANIZATION AND OTHERS. (a) When a hospital refers an individual at or near death to a procurement organization, the organization shall make a reasonable search of the records of the Department of Public Safety and any donor registry that it knows exists for the geographical area in which the individual resides to ascertain whether the individual has made an anatomical gift.

(b) A procurement organization must be allowed reasonable access to information in the records of the Department of Public Safety to ascertain whether an individual at or near death is a donor.

(c) When a hospital refers an individual at or near death to a procurement organization, the organization may conduct any reasonable examination necessary to ensure the medical suitability of a part that is or could be the subject of an anatomical gift for transplantation, therapy, research, or education from a donor or a prospective donor. During the examination period, measures necessary to ensure the medical suitability of the part may not be withdrawn unless the hospital or procurement organization knows that the individual expressed a contrary intent.

(d) Unless prohibited by law other than this chapter, at any time after a donor's death, the person to which a part passes under Section 692A.011 may conduct any reasonable examination necessary to ensure the medical suitability of the body or part for its intended purpose.

(e) Unless prohibited by law other than this chapter, an examination under Subsection (c) or (d) may include an examination of all medical and dental records of the donor or prospective donor.

(f) On the death of a minor who was a donor or had signed a refusal, unless a procurement organization knows the minor is emancipated, the procurement organization shall conduct a reasonable search for the parents of the minor and provide the parents with an opportunity to revoke or amend the anatomical gift or revoke the refusal.

(g) On referral by a hospital under Subsection (a), a procurement organization shall make a reasonable search for any person listed in Section 692A.009 having priority to make an anatomical gift on behalf of a prospective donor. If a procurement organization receives information that an anatomical gift to any other person was made, amended, or revoked, it shall promptly advise the other person of all relevant information.

(h) Subject to Sections 692A.011(k) and 693.002, the rights of the person to which a part passes under Section 692A.011 are superior to the rights of all others with respect to the part. The person may accept or reject an anatomical gift wholly or partly. Subject to the terms of the document of gift and this chapter, a person that accepts an anatomical gift of an entire body may allow embalming, burial, or cremation, and use of remains in a funeral service. If the gift is of a part, the person to

which the part passes under Section 692A.011, on the death of the donor and before embalming, burial, or cremation, shall cause the part to be removed without unnecessary mutilation.

(i) The physician who attends the decedent at death or the physician who determines the time of the decedent's death may not participate in the procedures for removing or transplanting a part from the decedent.

(j) A physician or technician may remove a donated part from the body of a donor that the physician or technician is qualified to remove.

Sec. 692A.015. COORDINATION OF PROCUREMENT AND USE; HOSPITAL PROCEDURES. Each hospital in this state shall enter into agreements or affiliations with procurement organizations for coordination of procurement and use of anatomical gifts. Each hospital must have a protocol that ensures its maintenance of an effective donation system in order to maximize organ and tissue donation. The protocol must:

(1) be available to the public during the hospital's normal business hours;

(2) establish a procedure for notifying, in a timely manner, an organ procurement organization of individuals whose death is imminent or who have died in the hospital;

(3) establish procedures to ensure potential donors are declared dead by an appropriate practitioner in an acceptable time frame;

(4) establish procedures to ensure that hospital staff and organ procurement organization staff maintain appropriate medical treatment of potential donors while necessary testing and placement of potential donated organs, tissues, and eyes take place;

(5) ensure that all families are provided the opportunity to donate organs and tissues, including vascular organs procured from asystolic donors;

(6) provide that the hospital use appropriately trained persons from an organ procurement organization, tissue bank, or eye bank to make inquiries relating to donations;

(7) provide for documentation of the inquiry and of its disposition in the decedent's medical records;

(8) require an organ procurement organization, tissue bank, or eye bank that makes inquiries relating to donations to develop a protocol for making those inquiries;

(9) encourage sensitivity to families' beliefs and circumstances in all discussions relating to the donations;

(10) provide that the organ procurement organization determines medical suitability for organ donation and, in the absence of alternative arrangements by the hospital, the organ procurement organization determines medical suitability for tissue and eye donation, using the definition of potential tissue and eye donor and the notification protocol developed in consultation with the tissue and eye banks identified by the hospital for this purpose;

(11) ensure that the hospital works cooperatively with the designated organ procurement organization, tissue bank, and eye bank in educating staff on donation issues;

(12) ensure that the hospital works with the designated organ procurement organization, tissue bank, and eye bank in reviewing death records; and

(13) provide for monitoring of donation system effectiveness, including rates of donation, protocols, and policies, as part of the hospital's quality improvement program.

Sec. 692A.016. SALE OR PURCHASE OF PARTS PROHIBITED. (a) Except as otherwise provided in Subsection (b), a person commits an offense if the person for valuable consideration knowingly purchases or sells a part for transplantation or therapy if removal of a part from an individual is intended to occur after the individual's death. An offense under this subsection is a Class A misdemeanor.

(b) A person may charge a reasonable amount for the removal, processing, preservation, quality control, storage, transportation, implantation, or disposal of a part.

(c) If conduct that constitutes an offense under this section also constitutes an offense under other law, the actor may be prosecuted under this section, the other law, or both this section and the other law.

Sec. 692A.017. OTHER PROHIBITED ACTS. (a) A person commits an offense if the person, in order to obtain a financial gain, intentionally falsifies, forges, conceals, defaces, or obliterates a document of gift, an amendment or revocation of a document of gift, or a refusal. An offense under this section is a Class A misdemeanor.

(b) If conduct that constitutes an offense under this section also constitutes an offense under other law, the actor may be prosecuted under this section, the other law, or both this section and the other law.

Sec. 692A.018. IMMUNITY. (a) A person who acts in good faith in accordance with this chapter is not liable for civil damages or subject to criminal prosecution for the person's action if the prerequisites for an anatomical gift are met under the laws applicable at the time and place the gift is made.

(b) A person that acts in accordance with this chapter or with the applicable anatomical gift law of another state, or attempts in good faith to do so, is not liable for the act in a civil action, criminal prosecution, or administrative proceeding.

(c) A person who acts in good faith in accordance with this chapter is not liable as a result of the action except in the case of an act or omission of the person that is intentional, wilfully or wantonly negligent, or done with conscious indifference or reckless disregard. For purposes of this subsection, "good faith" in determining the appropriate person authorized to make a donation under Section 692A.009 means making a reasonable effort to locate and contact the member or members of the highest priority class who are reasonably available at or near the time of death.

(d) Neither a person making an anatomical gift nor the donor's estate is liable for any injury or damage that results from the making or use of the gift.

(e) In determining whether an anatomical gift has been made, amended, or revoked under this chapter, a person may rely on representations of an individual listed in Section 692A.009(a)(2), (3), (4), (5), (6), or (7) relating to the individual's relationship to the donor or prospective donor unless the person knows that the representation is untrue.

(f) In a civil action brought by a person listed in Section 692A.009 who did not object before the removal of tissue or a body part specified by Section 693.002, a medical examiner, justice of the peace, county judge, medical facility, physician

acting on permission of a medical examiner, justice of the peace, or county judge, or person assisting a physician is not liable for damages on a theory of civil recovery based on a contention that the plaintiff's consent was required before the part or tissue could be removed.

Sec. 692A.019. LAW GOVERNING VALIDITY; CHOICE OF LAW AS TO EXECUTION OF DOCUMENT OF GIFT; PRESUMPTION OF VALIDITY. (a) A document of gift is valid if executed in accordance with:

(1) this chapter;

(2) the laws of the state or country where it was executed; or

(3) the laws of the state or country where the person making the anatomical gift was domiciled, has a place of residence, or was a national at the time the document of gift was executed.

(b) If a document of gift is valid under this section, the law of this state governs the interpretation of the document of gift.

(c) A person may presume that a document of gift or amendment of an anatomical gift is valid unless that person knows that it was not validly executed or was revoked.

Sec. 692A.020. DONOR REGISTRY. (a) In consultation with the Department of Public Safety and organ procurement organizations, the department shall establish the Donor Education, Awareness, and Registry Program of Texas.

(b) The department shall enter into an agreement with an organization selected by the commissioner under a competitive proposal process for the establishment and maintenance of a statewide Internet-based registry of organ, tissue, and eye donors. Contingent on the continued availability of appropriations under Subsection (h), the term of the initial agreement is two years and may be renewed for two-year terms thereafter unless terminated in a written notice to the other party by the department or organization not later than the 180th day before the last day of a term.

(c) The Department of Public Safety at least monthly shall electronically transfer to the organization selected by the commissioner as provided by Subsection (b) the name, date of birth, driver's license number, most recent address, and any other relevant information in the possession of the Department of Public Safety for any person who indicates on the person's driver's license application under Section 521.401, Transportation Code, that the person would like to make an anatomical gift and consents in writing to the release of the information by the Department of Public Safety to the organization for inclusion in the Internet-based registry.

(d) The contract between the department and the organization selected by the commissioner as provided by Subsection (b) must require the organization to:

(1) make information obtained from the Department of Public Safety under Subsection (c) available to procurement organizations;

(2) allow potential donors to submit information in writing directly to the organization for inclusion in the Internet-based registry;

(3) maintain the Internet-based registry in a manner that allows procurement organizations to immediately access organ, tissue, and eye donation information 24 hours a day, seven days a week through electronic and telephonic methods; and

(4) protect the confidentiality and privacy of the individuals providing information to the Internet-based registry, regardless of the manner in which the information is provided.

(e) Except as otherwise provided by Subsection (d)(3) or this subsection, the Department of Public Safety, the organization selected by the commissioner under Subsection (b), or a procurement organization may not sell, rent, or otherwise share any information provided to the Internet-based registry. A procurement organization may share any information provided to the registry with an organ procurement organization or a health care provider or facility providing medical care to a potential donor as necessary to properly identify an individual at the time of donation.

(f) The Department of Public Safety, the organization selected by the commissioner under Subsection (b), or the procurement organizations may not use any demographic or specific data provided to the Internet-based registry for any fund-raising activities. Data may only be transmitted from the selected organization to procurement organizations through electronic and telephonic methods using secure, encrypted technology to preserve the integrity of the data and the privacy of the individuals providing information.

(g) In each office authorized to issue driver's licenses or personal identification certificates, the Department of Public Safety shall make available educational materials developed by the Texas Organ, Tissue, and Eye Donor Council established under Chapter 113, as added by Chapter 1186, Acts of the 79th Legislature, Regular Session, 2005.

(h) The Department of Public Safety shall remit to the comptroller the money collected under Sections 521.421(g) and 521.422(c), Transportation Code, as provided by those subsections. A county assessor-collector shall remit to the comptroller any money collected under Section 502.1745, Transportation Code, as provided by that section. Money remitted to the comptroller in accordance with those sections that is appropriated to the department must be spent in accordance with the priorities established by the department in consultation with the Texas Organ, Tissue, and Eye Donor Council to pay the costs of:

(1) maintaining, operating, and updating the Internet-based registry and establishing procedures for an individual to be added to the registry; and

(2) designing and distributing educational materials for prospective donors as required under this section.

(i) Any additional money over the amount necessary to accomplish the purposes of Subsections (h)(1) and (2) may be used by the department to provide education under this chapter or may be awarded using a competitive grant process to organizations to conduct organ, eye, and tissue donation education activities in this state. A member of the Texas Organ, Tissue, and Eye Donor Council may not receive a grant under this subsection.

(j) The department shall require the organization selected under Subsection (b) to submit an annual written report to the department that includes:

(1) the number of donors listed on the Internet-based registry;

(2) changes in the number of donors listed on the registry; and

(3) the demographic characteristics of listed donors, to the extent the characteristics may be determined from information provided on donor registry forms submitted by donors to the organization.

(k) To the extent funds are available and as part of the donor registry program, the department shall educate residents about anatomical gifts. The program shall include information about:

(1) the laws governing anatomical gifts, including Subchapter Q, Chapter 521, Transportation Code, and this chapter;

(2) the procedures for becoming an organ, eye, or tissue donor or donee;
and

(3) the benefits of organ, eye, or tissue donation.

(l) In developing the program, the department in consultation with the Texas Organ, Tissue, and Eye Donor Council shall solicit broad-based input reflecting recommendations of all interested groups, including representatives of patients, providers, ethnic groups, and geographic regions.

(m) In consultation with the Texas Organ, Tissue, and Eye Donor Council, the department may implement a training program for all appropriate Department of Public Safety and Texas Department of Transportation employees on the benefits of organ, tissue, and eye donation and the procedures for individuals to be added to the Internet-based registry. The department shall implement the training program before the date that the registry is operational and shall conduct the training on an ongoing basis for new employees.

Sec. 692A.021. EFFECT OF ANATOMICAL GIFT ON ADVANCE DIRECTIVE. (a) In this section:

(1) "Advance directive" means a medical power of attorney or a record signed or authorized by a prospective donor containing the prospective donor's direction concerning a health-care decision for the prospective donor.

(2) "Declaration" means a record signed by a prospective donor specifying the circumstances under which a life support system may be withheld or withdrawn from the prospective donor.

(3) "Health-care decision" means any decision made regarding the health care of the prospective donor.

(b) If a prospective donor has a declaration or advance directive and the terms of the declaration or directive and the express or implied terms of a potential anatomical gift are in conflict with regard to the administration of measures necessary to ensure the medical suitability of a part for transplantation or therapy, the prospective donor's attending physician and prospective donor shall confer to resolve the conflict. If the prospective donor is incapable of resolving the conflict, an agent acting under the prospective donor's declaration or directive, or, if the agent is not reasonably available, another person authorized by law other than this chapter to make health-care decisions on behalf of the prospective donor, shall act on the prospective donor's behalf to resolve the conflict. The conflict must be resolved as expeditiously as possible. Information relevant to the resolution of the conflict may be obtained from the appropriate procurement organization and any other person authorized to

make an anatomical gift for the prospective donor under Section 692A.009. Before resolution of the conflict, measures necessary to ensure the medical suitability of the part may not be withheld or withdrawn from the prospective donor.

(c) If the conflict cannot be resolved, an expedited review of the matter must be initiated by an ethics or medical committee of the appropriate health care facility.

Sec. 692A.022. UNIFORMITY OF APPLICATION AND CONSTRUCTION. In applying and construing this chapter, consideration must be given to the need to promote uniformity of the law with respect to the subject matter of this chapter among states that enact a law substantially similar to this chapter.

Sec. 692A.023. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT. This chapter modifies, limits, and supersedes the provisions of the 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(a) of that Act (15 U.S.C. Section 7001(a)), 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 __. Section 241.153, Health and Safety Code, is amended to read as follows:

Sec. 241.153. DISCLOSURE WITHOUT WRITTEN AUTHORIZATION. A patient's health care information may be disclosed without the patient's authorization if the disclosure is:

(1) directory information, unless the patient has instructed the hospital not to make the disclosure or the directory information is otherwise protected by state or federal law;

(2) to a health care provider who is rendering health care to the patient when the request for the disclosure is made;

(3) to a transporting emergency medical services provider for the purpose of:

(A) treatment or payment, as those terms are defined by the regulations adopted under the Health Insurance Portability and Accountability Act of 1996 (Pub. L. No. 104-191); or

(B) the following health care operations described by the regulations adopted under the Health Insurance Portability and Accountability Act of 1996 (Pub. L. No. 104-191):

- (i) quality assessment and improvement activities;
- (ii) specified insurance functions;
- (iii) conducting or arranging for medical reviews; or
- (iv) competency assurance activities;

(4) to a member of the clergy specifically designated by the patient;

(5) to a [~~qualified organ or tissue~~] procurement organization as defined in Section 692A.002 [~~692.002~~] for the purpose of making inquiries relating to donations according to the protocol referred to in Section 692A.015 [~~692.013(d)~~];

(6) to a prospective health care provider for the purpose of securing the services of that health care provider as part of the patient's continuum of care, as determined by the patient's attending physician;

(7) to a person authorized to consent to medical treatment under Chapter 313 or to a person in a circumstance exempted from Chapter 313 to facilitate the adequate provision of treatment;

(8) to an employee or agent of the hospital who requires health care information for health care education, quality assurance, or peer review or for assisting the hospital in the delivery of health care or in complying with statutory, licensing, accreditation, or certification requirements and if the hospital takes appropriate action to ensure that the employee or agent:

(A) will not use or disclose the health care information for any other purpose; and

(B) will take appropriate steps to protect the health care information;

(9) to a federal, state, or local government agency or authority to the extent authorized or required by law;

(10) to a hospital that is the successor in interest to the hospital maintaining the health care information;

(11) to the American Red Cross for the specific purpose of fulfilling the duties specified under its charter granted as an instrumentality of the United States government;

(12) to a regional poison control center, as the term is used in Chapter 777, to the extent necessary to enable the center to provide information and education to health professionals involved in the management of poison and overdose victims, including information regarding appropriate therapeutic use of medications, their compatibility and stability, and adverse drug reactions and interactions;

(13) to a health care utilization review agent who requires the health care information for utilization review of health care under Chapter 4201 [~~Article 21.58A~~], Insurance Code;

(14) for use in a research project authorized by an institutional review board under federal law;

(15) to health care personnel of a penal or other custodial institution in which the patient is detained if the disclosure is for the sole purpose of providing health care to the patient;

(16) to facilitate reimbursement to a hospital, other health care provider, or the patient for medical services or supplies;

(17) to a health maintenance organization for purposes of maintaining a statistical reporting system as required by a rule adopted by a state agency or regulations adopted under the federal Health Maintenance Organization Act of 1973, as amended (42 U.S.C. Section 300e et seq.);

(18) to satisfy a request for medical records of a deceased or incompetent person pursuant to Section 74.051(e), Civil Practice and Remedies Code;

(19) to comply with a court order except as provided by Subdivision (20);

or

(20) related to a judicial proceeding in which the patient is a party and the disclosure is requested under a subpoena issued under:

(A) the Texas Rules of Civil Procedure or Code of Criminal Procedure;

or

(B) Chapter 121, Civil Practice and Remedies Code.

SECTION __. Subsection (d), Section 691.030, Health and Safety Code, is amended to read as follows:

(d) The board may transport a body or anatomical specimen to an authorized recipient in another state if the board determines that the supply of bodies or anatomical specimens in this state exceeds the need for bodies or anatomical specimens in this state and if:

(1) the deceased donated his body in compliance with Section 691.028 and at the time of the donation authorized the board to transport the body outside this state; or

(2) the body was donated in compliance with Chapter 692A [~~692 (Texas Anatomical Gift Act)~~] and the person authorized to make the donation under Section 692A.009 [~~692.004~~] authorized the board to transport the body outside this state.

SECTION __. Subsection (a), Section 693.002, Health and Safety Code, is amended by amending Subdivisions (1), (2), and (4) and adding Subdivisions (2-a) and (5-a) to read as follows:

(1) On a request from an ~~a~~ qualified organ procurement organization, as defined by ~~the~~ Section 692A.002 [~~692.002~~], the medical examiner, justice of the peace, county judge, or physician designated by the justice of the peace or county judge may permit the removal of organs from a decedent who died under circumstances requiring an inquest by the medical examiner, justice of the peace, or county judge if consent is obtained pursuant to Sections 692A.005 through 692A.010 or Section 693.003.

(2) If no autopsy is required, the organs to be transplanted shall be released in a timely manner to the qualified organ procurement organization, as defined by ~~the~~ Section 692A.002 [~~692.002~~], for removal and transplantation.

(2-a) Within one hour of pronouncement of death, or within one hour of consent on an asystolic organ donor, the organ procurement organization shall notify the medical examiner, justice of the peace, county judge, or designated physician of any death requiring an inquest that falls under that person's jurisdiction.

(4) If the medical examiner is considering withholding one or more organs of a potential donor for any reason, the medical examiner shall be present during the removal of the organs. In such case, the medical examiner may request a biopsy of those organs or deny removal of the anatomical gift. If the medical examiner denies removal of the anatomical gift, the medical examiner shall explain in writing the reasons for the denial. The medical examiner shall provide the explanation to:

(A) the qualified organ procurement organization; and

(B) any person listed in Section 692A.009 or 693.004 who consented to the removal.

(5-a) Effective September 1, 2009, the medical examiner, or physician designee of a justice of the peace, or physician designee of a county judge, who will subsequently perform the postmortem examination may restrict designation of cardiac tissue for organ donation purposes without being required to be present at the hospital to examine the decedent before removal of the organs or during the procedure to remove the organs.

SECTION __. Subsection (b), Section 693.002, Health and Safety Code, is amended to read as follows:

(b) On a request from a ~~qualified~~ tissue bank ~~[procurement organization]~~, as defined by ~~in~~ Section 692A.002 ~~[692.002]~~, the medical examiner may permit the removal of tissue believed to be clinically usable for transplants or other therapy or treatment from a decedent who died under circumstances requiring an inquest if consent is obtained pursuant to Sections 692A.005 through 692A.010 or Section 693.003 or, if consent is not required by those sections ~~[that section]~~, no objection by a person listed in Section 692A.009 or 693.004 is known by the medical examiner. If the medical examiner denies removal of the tissue, the medical examiner shall explain in writing the reasons for the denial. The medical examiner shall provide the explanation to:

- (1) the ~~qualified~~ tissue bank ~~[procurement organization]~~; and
- (2) the person listed in Section 692A.009 or 693.004 who consented to the removal.

SECTION __. Section 693.003, Health and Safety Code, is amended to read as follows:

Sec. 693.003. CONSENT NOT REQUIRED IN CERTAIN CIRCUMSTANCES. ~~[(a) A medical examiner or a person acting on the authority of a medical examiner may not remove a visceral organ unless the medical examiner or person obtains the consent of a person listed in Section 693.004.~~

~~[(b) If a person listed in Section 693.004 is known and available within four hours after death is pronounced, a medical examiner or a person acting on the authority of a medical examiner may not remove a nonvisceral organ or tissue unless the medical examiner or person obtains that person's consent.~~

~~[(c) If a person listed in Section 692A.009 or 693.004 cannot be identified and contacted within 12 [four] hours after death is pronounced and either a county court or [the] medical examiner determines that no reasonable likelihood exists that a person can be identified and contacted during the 12-hour [four-hour] period, the county court or medical examiner may permit the removal of a visceral [nonvisceral] organ or tissue.~~

SECTION __. Section 693.005, Health and Safety Code, is amended to read as follows:

Sec. 693.005. IMMUNITY FROM DAMAGES IN CIVIL ACTION. In a civil action brought by a person listed in Section 692A.009 or 693.004 who did not object before the removal of tissue or a body part specified by Section 693.002, a medical examiner, justice of the peace, county judge, medical facility, physician acting on permission of a medical examiner, justice of the peace, or county judge, or person assisting a physician is not liable for damages on a theory of civil recovery based on a contention that the plaintiff's consent was required before the body part or tissue could be removed.

SECTION __. Section 693.006, Health and Safety Code, is amended to read as follows:

Sec. 693.006. REMOVAL OF CORNEAL TISSUE. On a request from an eye bank, as defined in Section 692A.002 ~~[692.002]~~, the medical examiner, justice of the peace, county judge, or physician designated by the justice of the peace or county judge may permit the removal of corneal tissue subject to the same provisions that

apply to removal of a visceral organ on the request of a ~~[an organ]~~ procurement organization under this subchapter. The provisions of ~~Chapter 692A [this subchapter]~~ relating to immunity and consent apply to the removal of the corneal tissue.

SECTION __. Subsections (b) and (c), Section 521.401, Transportation Code, are amended to read as follows:

(b) The statement of gift may be shown on a donor's driver's license or personal identification certificate or by a card designed to be carried by the donor to evidence the donor's intentions with respect to organ, tissue, and eye donation. A donor card signed by the donor shall be given effect as if executed pursuant to Section 692A.005 ~~[692.003(d)]~~, Health and Safety Code.

(c) Donor cards shall be provided to the department by ~~[qualified]~~ organ ~~[or tissue]~~ procurement organizations, tissue banks, or eye banks, as those terms are defined in Section 692A.002 ~~[692.002]~~, Health and Safety Code, or by the Donor Education, Awareness, and Registry Program of Texas established under Chapter 49, Health and Safety Code. The department shall:

(1) provide to each applicant for the issuance of an original, renewal, corrected, or duplicate driver's license or personal identification certificate who applies in person, by mail, over the Internet, or by other electronic means:

(A) the opportunity to indicate on the person's driver's license or personal identification certificate that the person is willing to make an anatomical gift, in the event of death, in accordance with Section 692A.005 ~~[692.003]~~, Health and Safety Code; and

(B) an opportunity for the person to consent in writing to the department's provision of the person's name, date of birth, driver's license number, most recent address, and other information needed for identification purposes at the time of donation to the organization selected by the commissioner of state health services under Section 692A.020 ~~[Chapter 49]~~, Health and Safety Code, for inclusion in the statewide Internet-based registry of organ, tissue, and eye donors and for release to ~~procurement [qualified organ, tissue, and eye bank]~~ organizations; and

(2) provide a means to distribute donor cards to interested individuals in each office authorized to issue driver's licenses or personal identification certificates.

SECTION __. Subsection (f), Section 651.407, Occupations Code, is amended to read as follows:

(f) This section does not apply to a dead human body obtained by a school or college of mortuary science under Chapter 691 or 692A ~~[692]~~, Health and Safety Code.

SECTION __. The following provisions are repealed:

- (1) Section 49.002, Health and Safety Code;
- (2) Chapter 692, Health and Safety Code;
- (3) Section 521.403, Transportation Code; and
- (4) Section 521.404, Transportation Code.

The amendment to **CSHB 3560** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 7 except as follows:

Absent-excused: Gallegos.

On motion of Senator Janek and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSHB 3560 as amended was passed to third reading by a viva voce vote.

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

Absent-excused: Gallegos.

COMMITTEE SUBSTITUTE HOUSE BILL 3560 ON THIRD READING

Senator Janek moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 3560** be placed on its third reading and final passage.

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

Absent-excused: Gallegos.

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

HOUSE BILL 3319 ON SECOND READING

On motion of Senator Duncan and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 3319** at this time on its second reading:

HB 3319, Relating to the sales and use tax.

The bill was read second time.

Senator Shapiro offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 3319** (Senate committee printing) on page 1, between lines 56 and 57, by adding the following appropriately numbered SECTION and renumbering the remaining SECTIONS accordingly:

SECTION _____. Section 151.056, Tax Code, is amended by adding Subsection (g) to read as follows:

(g) In this subsection, "ready mix concrete contractor" means a person who manufactures or produces ready mixed concrete for construction purposes and incorporates the ready mixed concrete in the property improved. A ready mix concrete contractor performing a contract must separate and individually invoice the customer for each yard of ready mixed concrete produced and consumed for the improvement of real property, and collect and remit the tax imposed under this chapter on the ready mixed concrete produced and consumed. The tax rate is applied to the price of the materials determined by the greater of the invoice price or fair market value of ready mixed concrete incorporated into the project. This subsection does not apply to an invoice submitted by a ready mix concrete contractor for a public works project.

The amendment to **HB 3319** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent-excused: Gallegos.

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 2

Amend **HB 3319**, is amended as follows:

In Section 6, page 3, between 3-55 and 3-56, add the following new paragraph to Section 151.326, Tax Code, as follows:

(c) The sale of a school backpack made for a sales price less than \$100 during the period described in this Section is exempted from the taxes imposed by this chapter if the backpack is purchased for use by a student in a public or private elementary or secondary school. A retailer is not required to obtain an exemption certificate stating that school backpacks are purchased for use by students in a public or private elementary or secondary school unless the backpacks are purchased in a quantity that indicates that the backpacks are not purchased for use by students in a public or private elementary or secondary school.

The amendment to **HB 3319** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2 except as follows:

Absent-excused: Gallegos.

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 3

Amend **HB 3319**, Section 13, page 5, line 5-64 as follows:

SECTION 13. This Act takes effect September 1, 2007-, except that Section 6 of this Act takes effect immediately if the Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution, and, if not, Section 6 takes effect on September 1, 2007.

The amendment to **HB 3319** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 3 except as follows:

Absent-excused: Gallegos.

Senator Patrick offered the following amendment to the bill:

Floor Amendment No. 4

Amend **HB 3319** by inserting the following on page 5, line 58, and renumbering the following Sections accordingly:

SECTION ____ Subchapter H, Chapter 151, Tax Code, is amended by adding Section 151.357 to read as follows:

Sec. 151.357. HURRICANE PREPARATION AND SUMMER SEASONAL SUPPLIES FOR LIMITED PERIOD. (a) The sale of a hurricane preparation or summer seasonal item is exempted from the taxes imposed by this chapter if the sale takes place within a period beginning at 12:01 a.m. on the first Friday in June and ending at 12 midnight on the following Sunday.

(b) For purposes of this section, "hurricane preparation or summer seasonal item" means:

- (1) a generator;
- (2) a wireless telephone;
- (3) a battery charger for a wireless telephone battery;
- (4) a flashlight;
- (5) a lantern;
- (6) a radio, the sales price of which does not exceed \$100;
- (7) a tarpaulin;
- (8) a first-aid kit;
- (9) a battery or package of batteries;
- (10) a gasoline can or other similar gasoline container;
- (11) a power tool, including a chain saw and any battery-operated power

tool;

- (12) a cleaning supply;
- (13) gloves;
- (14) a shovel;
- (15) a rake;
- (16) blankets; or
- (17) personal hygiene items.

The amendment to **HB 3319** was read.

On motion of Senator Duncan, Floor Amendment No. 4 was tabled by the following vote: Yeas 21, Nays 9.

Yeas: Averitt, Brimer, Carona, Duncan, Ellis, Estes, Fraser, Harris, Hinojosa, Nelson, Ogden, Seliger, Shapiro, Shapleigh, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Deuell, Eltife, Hegar, Jackson, Janek, Lucio, Nichols, Patrick, Uresti.

Absent-excused: Gallegos.

Question — Shall **HB 3319** as amended be passed to third reading?

(12:00 Midnight)

SENATE RULE 7.25 SUSPENDED (Limitation On Vote)

On motion of Senator Watson, Senate Rule 7.25, as it relates to the passage of any bill on third reading after the 135th calendar day of a regular session, was suspended until 1:00 a.m. by the following vote: Yeas 26, Nays 4.

Yeas: Averitt, Brimer, Carona, Deuell, Duncan, Ellis, Eltife, Hegar, Hinojosa, Janek, Lucio, Nichols, Ogden, Patrick, Seliger, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Fraser, Harris, Jackson, Nelson.

Absent-excused: Gallegos.

Question — Shall **HB 3319** as amended be passed to third reading?

Senator Van de Putte offered the following amendment to the bill:

Floor Amendment No. 5

Amend **HB 3319** by adding the following additional SECTIONS in the appropriate place and renumber subsequent SECTIONS

SECTION _____. Subchapter E, Chapter 152, Tax Code, is amended by adding Section 152.090 and 152.091 to read as follows:

Sec. 152.090. CERTAIN HYDROGEN-POWERED MOTOR VEHICLES. (a) In this section, "hydrogen-powered motor vehicle" means a vehicle that meets the Phase II standards established by the California Air Resources Board as of September 1, 2007, for an ultra low-emission vehicle II or stricter Phase II emission standards established by that board and:

(1) is hydrogen power capable and has a fuel economy rating of at least 45 miles per gallon; or

(2) is fully hydrogen-powered.

(b) The taxes imposed by this chapter do not apply to the sale or use of a hydrogen-powered motor vehicle.

SECTION _____. Section 403.014 Government Code is amended to read as follows:

403.014. REPORT ON EFFECT OF CERTAIN TAX PROVISIONS. (a) Before each regular session of the legislature, the comptroller shall report to the legislature and the governor on the effect, if it is possible to assess, of exemptions, discounts, exclusions, special valuations, special accounting treatments, special rates, and special methods of reporting relating to:

(1) sales, excise, and use tax under Chapter 151, Tax Code; and Section 152.090 Tax Code

(2) franchise tax under Chapter 171, Tax Code;

(3) school district property taxes under Title 1, Tax Code; and

(4) any other tax generating more than five percent of state tax revenue in the prior fiscal year.

SECTION _____. SECTION _____ and SECTION _____ take effect September 1, 2007

The amendment to **HB 3319** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 5 except as follows:

Absent-excused: Gallegos.

Senator Eltife offered the following amendment to the bill:

Floor Amendment No. 6

Amend **HB 3319** (Senate committee printing) by adding the following SECTION to the bill, appropriately numbered, and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. (a) Subtitle C, Title 3, Tax Code, is amended by adding Chapter 326 to read as follows:

CHAPTER 326. MUNICIPAL AND COUNTY SALES AND USE TAX FOR
PROPERTY TAX RELIEF

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 326.001. APPLICABLE LAW. Except as otherwise provided by this chapter:

(1) Chapter 321 applies to the municipal tax authorized by this chapter in the same manner as that chapter applies to the tax authorized by that chapter; and

(2) Chapter 323 applies to the county tax authorized by this chapter in the same manner as that chapter applies to the tax authorized by that chapter.

Sec. 326.002. EFFECT ON COMBINED LOCAL TAX RATE. (a) Sections 321.101 and 323.101 do not apply to the municipal or county tax authorized by this chapter.

(b) The rate of a municipal or county sales and use tax imposed under this chapter may not be considered in determining the combined or overlapping rate of local sales and use taxes in any area under this subtitle or another law, including:

(1) the Health and Safety Code;

(2) the Local Government Code;

(3) the Special District Local Laws Code;

(4) the Transportation Code; or

(5) the Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes).

[Sections 326.003-326.050 reserved for expansion]

SUBCHAPTER B. IMPOSITION OF TAX

Sec. 326.051. TAX AUTHORIZED. (a) A municipality or a county may adopt or abolish the sales and use tax authorized by this chapter at an election held in the municipality or county.

(b) The adoption of the tax authorized by this chapter by one political subdivision does not affect the authority of another political subdivision that has overlapping boundaries to also adopt the tax authorized by this chapter.

Sec. 326.052. TAX RATE. The rate of the tax authorized by this chapter is one-fourth of one percent.

Sec. 326.053. SALES AND USE TAX EFFECTIVE DATE. (a) The adoption or abolition of the tax takes effect on the first day of the first calendar quarter occurring after the expiration of the first complete calendar quarter occurring after the date on which the comptroller receives a notice of the results of the election from the municipality or county.

(b) If the comptroller determines that an effective date provided by Subsection (a) will occur before the comptroller can reasonably take the action required to begin collecting the tax or to implement the abolition of the tax, the effective date may be extended by the comptroller until the first day of the next succeeding calendar quarter.

[Sections 326.054-326.100 reserved for expansion]

SUBCHAPTER C. TAX ELECTION PROCEDURES

Sec. 326.101. CALLING ELECTION. (a) An election authorized by this chapter in a municipality is called by the adoption of an ordinance by the governing body of the municipality.

(b) An election authorized by this chapter in a county is called by the adoption of an order by the commissioners court of the county.

(c) The governing body of a municipality or the commissioners court may call an election on its own motion or shall call an election if a number of qualified voters of the municipality or county equal to at least five percent of the number of registered voters in the municipality or county petition the governing body or commissioners court to call the election.

Sec. 326.102. ELECTION DATE. An election under this chapter must be held on the next uniform election date that occurs after the date of the election order and that allows sufficient time to comply with the requirements of other law.

Sec. 326.103. BALLOT. (a) At an election to adopt the tax, the ballot shall be prepared to permit voting for or against the proposition: "The adoption of a local sales and use tax in (name of municipality or county) at the rate of one-fourth of one percent to reduce the (municipal or county) property tax rate."

(b) At an election to abolish the tax, the ballot shall be prepared to permit voting for or against the proposition: "The abolition of the one-fourth of one percent sales and use tax in (name of municipality or county) used to reduce the (municipal or county) property tax rate."

[Sections 326.104-326.150 reserved for expansion]

SUBCHAPTER D. USE OF TAX REVENUE

Sec. 326.151. USE OF REVENUE. Any amount derived by a municipality or county from the sales and use tax under this chapter is additional sales and use tax revenue for purposes of Section 26.041.

Sec. 326.152. CALCULATION OF MUNICIPAL OR COUNTY ROLLBACK TAX RATE. For a municipality or county in which the voters have approved the imposition of the sales and use tax under this chapter, for an ad valorem tax year that begins on or after the date the sales and use tax takes effect, in the formula for calculating the rollback tax rate of the municipality or county, the officer or employee designated by the governing body of the municipality or the commissioners court of the county to make the calculation shall substitute 1.05 for 1.08.

(b) Subdivision (1), Section 26.012, Tax Code, is amended to read as follows:

(1) "Additional sales and use tax" means an additional sales and use tax imposed by:

(A) a municipality ~~[city]~~ under Section 321.101(b) or Chapter 326;

(B) a county under Chapter 323 or 326; or

(C) a hospital district, other than a hospital district created on or after September 1, 2001, that:

(i) imposes the sales and use tax under Subchapter I, Chapter 286, Health and Safety Code; or

(ii) imposes the sales and use tax under Subchapter L, Chapter 285, Health and Safety Code.

(c) Subsection (i), Section 31.01, Tax Code, is amended to read as follows:

(i) For a municipality ~~[city or town]~~ that imposes an additional sales and use tax under Section 321.101(b) or Chapter 326 ~~[of this code]~~, or a county that imposes a sales and use tax under Chapter 323 or 326 ~~[of this code]~~, the tax bill shall indicate the amount of additional ad valorem taxes, if any, that would have been imposed on the

property if additional ad valorem taxes had been imposed in an amount equal to the amount of revenue estimated to be collected from the additional municipal ~~[city]~~ sales and use tax or from the county sales and use tax, as applicable, for the year determined as provided by Section 26.041 ~~[of this code]~~.

(d) Subsections (b) and (c) of this section apply only to ad valorem taxes that are imposed for an ad valorem tax year that begins on or after January 1, 2008.

(e) Notwithstanding any other law, a county that has a population of more than 280,000 and less than 300,000, or a municipality located wholly or partly in such a county, may not hold an election to adopt a tax under Chapter 326, Tax Code, as added by Subsection (a) of this section, before January 1, 2008.

(f)(1) Except as provided by Subdivision (2) of this subsection, this section takes effect September 1, 2007.

(2) Subsections (b) and (c) of this section take effect January 1, 2008.

The amendment to **HB 3319** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 6 except as follows:

Absent-excused: Gallegos.

On motion of Senator Duncan and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 3319 as amended was passed to third reading by a viva voce vote.

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

Absent-excused: Gallegos.

HOUSE BILL 3319 ON THIRD READING

Senator Duncan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3319** be placed on its third reading and final passage.

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

Absent-excused: Gallegos.

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

COMMITTEE SUBSTITUTE HOUSE BILL 15 ON SECOND READING

Senator Ogden moved to suspend the regular order of business to take up for consideration **CSHB 15** at this time on its second reading:

CSHB 15, Relating to making supplemental appropriations and reductions in appropriations and giving direction, transfer authority, and other adjustment authority regarding appropriations.

The motion prevailed.

Senator Patrick asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time.

Senator Ogden offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 15** (Senate committee printing) as follows:

(1) Add the following appropriately numbered SECTION to the bill immediately following existing SECTION 20 (page 7, between lines 17 and 18), renumber subsequent SECTIONS of the bill accordingly, and revise references to existing Section 20 in the following added SECTION as necessary to ensure that those references are to existing Section 20 of the bill in the event that existing Section 20 is renumbered:

SECTION _____. HEALTH AND HUMAN SERVICES COMMISSION: APPROPRIATION FOR *FREW V. HAWKINS* SETTLEMENT. (a) In this section, "*Frew v. Hawkins*" has the meaning assigned by Section 20 of this Act.

(b) The amounts appropriated by Subsection (c) of this section are contingent on applicable approval of the settlement in *Frew v. Hawkins* by the federal judiciary and are subject to Section 20 of this Act.

(c) In addition to amounts otherwise appropriated for the state fiscal biennium ending August 31, 2009, the amount of \$706.7 million is appropriated out of the general revenue fund and the amount of \$1,073.2 million in federal funds is appropriated to the Health and Human Services Commission for the state fiscal biennium ending August 31, 2009, for the purpose of complying with the settlement in *Frew v. Hawkins*.

(2) Strike existing SECTION 7 of the bill (page 2, lines 26-33) and renumber subsequent SECTIONS accordingly.

(3) In SECTION 19 of the bill, between "out of the general revenue fund" and "to the Health and Human Services Commission" (page 5, line 17), insert "and the amount of \$165,300,000 in federal matching funds is appropriated".

(4) In existing SECTION 21 of the bill (page 7, line 35), strike "117" and substitute "245".

(5) Strike existing SECTION 22 of the bill (page 7, lines 44-55) and substitute the following appropriately numbered SECTION:

SECTION _____. DEPARTMENT OF AGING AND DISABILITY SERVICES: RESTORATION OF COMMUNITY CARE AND ICF-MR PROVIDER RATES TO FISCAL YEAR 2003 LEVELS. (a) The following amounts are appropriated to the Department of Aging and Disability Services for the purpose of restoring provider rates to fiscal year 2003 levels in programs for home and community-based services, in programs for community living assistance and support services (CLASS), in the Texas Home Living Waiver program, and in intermediate care facilities for the mentally retarded (ICFs/MR):

(1) the amount of \$3,400,000 is appropriated out of the general revenue fund and \$5,150,000 in federal funds is appropriated for the two-year period beginning on the effective date of this Act; and

(2) the amount of \$10,800,000 is appropriated out of the general revenue fund and \$16,400,000 in federal funds is appropriated for the state fiscal biennium ending August 31, 2009.

(b) The adjustment to provider rates for services described by this section is effective January 1, 2007.

SECTION _____. DEPARTMENT OF AGING AND DISABILITY SERVICES: INCREASE HOME HEALTH PROVIDER RATES IN FISCAL YEAR 2009. The amount of \$18,000,000 is appropriated out of the general revenue fund and \$27,270,000 in federal funds is appropriated to the Department of Aging and Disability Services for the state fiscal year ending August 31, 2009, for the purpose of providing a rate increase to certain home health providers in fiscal year 2009. The Department of Aging and Disability Services may allocate these funds as appropriate among the following General Appropriations Act strategies:

- (1) Strategy A.2.1, Primary Home Care;
- (2) Strategy A.2.2, Community Attendant Services;
- (3) Strategy A.3.1, Community-based Alternatives; and
- (4) Strategy A.6.4, Promoting Independence Services.

(6) Strike existing SECTION 23 of the bill (page 7, lines 56-63) and substitute the following appropriately numbered SECTION:

SECTION _____. DEPARTMENT OF STATE HEALTH SERVICES: ANTIVIRALS FOR INFLUENZA PANDEMIC. In addition to other amounts appropriated for the state fiscal biennium ending August 31, 2009, that may be used for this purpose, the amount of \$11,000,000 is appropriated out of the general revenue fund to the Department of State Health Services for the state fiscal biennium ending August 31, 2009, for the purpose of purchasing antiviral drugs for use in the event of an influenza pandemic.

(7) Strike existing SECTION 24 of the bill (page 7, line 64 through page 8, line 3) and substitute the following appropriately numbered SECTION:

SECTION _____. COMPTROLLER OF PUBLIC ACCOUNTS: SUPPORT FOR TAX ADMINISTRATION DUTIES AND STATEWIDE FISCAL RESPONSIBILITIES. In addition to other amounts appropriated for the state fiscal biennium ending August 31, 2007, the amount of \$4,100,000 is appropriated out of the general revenue fund to the comptroller of public accounts for the two-year period beginning on the effective date of this Act for the purpose of supporting the comptroller's tax administration duties and statewide fiscal responsibilities.

(8) In existing SECTION 30(b)(1) of the bill (page 12, line 1), strike "the amount of" and substitute "an amount not to exceed".

(9) In existing SECTION 30(b)(2) of the bill (page 12, line 7), strike "the amount of" and substitute "an amount not to exceed".

(10) In existing SECTION 32 of the bill (page 12, lines 22 and 23), strike "The unencumbered amount of" and substitute "An unencumbered amount not to exceed".

(11) In existing SECTION 34 of the bill (page 12, line 41), strike "\$463,973,206" and substitute "\$472,818,424".

(12) In existing SECTION 12 of the bill (page 3, line 32), strike "The University of Houston" and substitute "Sam Houston State University".

(13) In existing SECTION 10 of the bill (page 3, lines 3-9), strike proposed subsection (b) and substitute:

(b) The appropriation made by Subsection (a) of this section is contingent upon the development of a suitable plan of reorganization approved by the Legislative Budget Board and the Governor or the placement of the university under conservatorship as defined by Government Code Chapter 2104.

(14) In existing SECTION 25 of the bill on page 8, line 12 insert "The agency shall seek to recover all expenses from the scrap value and or the owner of the structure" after the period.

(15) In existing SECTION 21 of the bill on line 28 of page 7 strike "\$1,502,423" and substitute "\$1,952,114".

(16) In existing SECTION 21 of the bill on line 30 of page 7 strike "\$2,214,557" and substitute "\$3,383,451".

(17) In existing SECTION 21 of the bill on line 40 of page 7 strike "\$2,033,837" and substitute "\$2,555,837".

(18) In existing SECTION 29 of the bill strike subsection (n) (page 11, line 10 through line 54) of the bill and substitute the following:

(n) The following amounts are appropriated for the state fiscal biennium ending August 31, 2009, to the following agencies for the purpose of making payments for data center consolidation hardware upgrades and physical transfer of equipment:

(1) \$236,000 is appropriated out of the general revenue fund to the Railroad Commission of Texas;

(2) \$108,858 is appropriated out of the general revenue fund and an additional \$470,142 is appropriated out of general revenue dedicated accounts to the Texas Commission on Environmental Quality;

(3) \$226,919 is appropriated out of the general revenue fund, an additional \$10,522 is appropriated out of general revenue dedicated accounts, and \$1,151,559 in federal funds is appropriated to the Texas Workforce Commission;

(4) \$214,000 is appropriated out of general revenue dedicated accounts to the Parks and Wildlife Department;

(5) \$217,369 is appropriated out of the general revenue fund, and an additional \$274,631 is appropriated out of general revenue dedicated accounts to the Texas Department of Insurance;

(6) \$44,000 is appropriated out of the general revenue fund to the Texas State Library and Archives Commission;

(7) \$96,000 is appropriated out of the general revenue fund to the Secretary of State;

(8) \$371,424 is appropriated out of the general revenue fund, \$39,432 in other funds is appropriated, and \$225,144 in federal funds is appropriated to the Texas Education Agency;

(9) \$69,878 is appropriated out of the general revenue fund, \$74,732 in other funds is appropriated, and \$1,390 in federal funds is appropriated to the Texas Higher Education Coordinating Board;

(10) \$23,000 is appropriated out of the general revenue fund to the Public Utility Commission of Texas;

(11) \$1,980 is appropriated out of the general revenue fund to the General Land Office;

(12) \$28,350 is appropriated out of the general revenue dedicated accounts, and \$16,650 in other funds is appropriated to the Department of Public Safety;

(13) \$141,000 is appropriated out of the general revenue fund to the Office of the Attorney General;

(14) \$48,000 is appropriated out of the general revenue fund to the Texas Alcoholic Beverage Commission;

(15) \$29,767 is appropriated out of the general revenue fund, an additional \$1,195 is appropriated out of general revenue dedicated accounts, and \$10,038 in other funds is appropriated to the Texas Building and Procurement Commission;

(16) \$126,582 is appropriated out of the general revenue fund to the Texas Department of Agriculture;

(17) \$13,000 is appropriated out of the general revenue fund to the Texas Department of Licensing and Regulation;

(18) \$83,000 is appropriated out of the general revenue fund to the Texas Water Development Board; and

(19) \$138,000 is appropriated out of the general revenue fund to the Texas Youth Commission.

(19) Add the following appropriately numbered SECTION to the bill immediately following existing SECTION 34 and renumber subsequent SECTIONS of the bill accordingly:

SECTION _____. DEPARTMENT OF AGING AND DISABILITY SERVICES: REDUCTION IN CERTAIN SUPPLEMENTAL APPROPRIATIONS. The appropriations made from general revenue by Section 5, Chapter 1362, Acts of the 79th Legislature, Regular Session, 2005 (House Bill 10), are reduced by the amount of \$30,000,000.

SECTION _____. PRAIRIE VIEW A&M UNIVERSITY: APPROPRIATION FOR ACADEMIC DEVELOPMENT INITIATIVE. (a) In addition to other amounts appropriated for the state fiscal biennium ending August 31, 2009, that may be used for this purpose, the following amounts are appropriated out of the general revenue fund to Prairie View A&M University for the purpose of funding the Academic Development Initiative:

(1) 5,000,000 is appropriated for the state fiscal year ending August 31, 2008; and

(2) \$5,000,000 and any unexpended balance of the amount appropriated under Subdivision (1) of this subsection are appropriated for the state fiscal year ending August 31, 2009.

(b) The amounts appropriated by Subsection (a) of this section shall be used for:

(1) proven academic success programs;

(2) existing graduate programs;

(3) undergraduate education; and

(4) initiatives to target enrollment growth.

(c) Prairie View A&M University and Texas A&M University System shall jointly create and submit an accountability report outlining use of these funds by November 1 of each fiscal year to the Texas A&M University System Board of

Regents, the Texas Higher Education Coordinating Board, the Legislative Budget Board, and the Governor. This accountability report shall set forth goals to be achieved with the Academic Development Initiative funding, establish milestones and timelines showing progress toward meeting those goals. For milestones that are not met, the report will include recommended actions to achieve the milestones or recommended changes to more efficiently meet the goals of the Academic Development Initiative.

SECTION _____. UNIVERSITY OF TEXAS MEDICAL BRANCH AT GALVESTON: INTERRUPTIONS CAUSED BY HURRICANE RITA. (a) In addition to other amounts appropriated for the two year period beginning the effective date of this Act, that may be used for this purpose, the amount of \$13,100,000 is appropriated out of the general revenue fund to The University of Texas Medical Branch at Galveston for two year period beginning the effective date of this Act, for the purpose of reimbursing the institution for nonreimbursed losses resulting from interruptions in services and operations caused by Hurricane Rita.

(b) It is the intent of the legislature that The University of Texas Medical Branch at Galveston use the money appropriated by Subsection (a) of this section in equal amounts in each fiscal year of the state fiscal biennium for which the money is appropriated.

SECTION _____. UNIVERSITY OF HOUSTON: FINANCIAL NEEDS OF HURRICANE KATRINA VICTIMS. In addition to other amounts appropriated for the state fiscal biennium ending August 31, 2007, the amount of \$2,550,000 is appropriated out of the general revenue fund to the University of Houston for the two-year period beginning on the effective date of this Act, for the purpose of meeting financial needs of 930 students enrolled at the university who were victims of Hurricane Katrina.

SECTION _____. TEXAS COMMISSION ON ENVIRONMENTAL QUALITY: TARRANT COUNTY WALKER BRANCH FACILITY REMEDIATION. In addition to other amounts appropriated for the state fiscal biennium ending August 31, 2007, the amount of \$1,500,000 is appropriated out of the general revenue-dedicated solid waste disposal fees account No. 5000 to the Texas Commission on Environmental Quality for the two-year period beginning on the effective date of this Act for the purpose of removing solid waste and recycling debris from the Walker Branch facility in Fort Worth.

SECTION _____. TEXAS COMMISSION ON ENVIRONMENTAL QUALITY: CONTINGENCY APPROPRIATION. Contingent on S.B. No. 1604 or similar legislation being enacted by the 80th Legislature, Regular Session, 2007, and becoming law with immediate effect, the amount of \$200,000 is appropriated, in addition to amounts previously appropriated for the state fiscal biennium ending August 31, 2007, to the Texas Commission on Environmental Quality out of the waste management account (GR Dedicated Account No. 0549) for the two-year period beginning on the effective date of this Act for the purpose of implementing that legislation.

SECTION _____. DEPARTMENT OF STATE HEALTH SERVICES: HARRIS COUNTY PSYCHIATRIC HOSPITAL. In addition to other amounts appropriated for the state fiscal biennium ending August 31, 2009, that may be used for this purpose,

the amount of \$7,000,000 is appropriated out of the general revenue fund to the Department of State Health Services for the state fiscal biennium ending August 31, 2009, for the purpose of providing for the operations of The University of Texas Harris County Psychiatric Center.

SECTION _____. DEPARTMENT OF STATE HEALTH SERVICES: INFORMATION RESOURCES TECHNOLOGIES. (a) Notwithstanding the limitations of Chapter 1369, Acts of the 79th Legislature, Regular Session, 2005 (the General Appropriations Act), the Department of State Health Services shall transfer \$9,700,000 in general revenue funds appropriated to the department by that Act in Strategy A.3.3, Kidney Health Care, to Strategy F.2.1, Capital Items-Public Health. The department shall expend the funds transferred by this section during the state fiscal year ending August 31, 2007, on information technology projects.

(b) The capital budget authority granted for the state fiscal biennium ending August 31, 2007, to the Department of State Health Services by other law is increased by \$9,700,000 for that biennium for the acquisition of information resources technologies.

SECTION _____. PUBLIC UTILITY COMMISSION: SYSTEM BENEFIT FUND. In addition to other amounts appropriated for the two year period beginning the effective date of this Act that may be used for this purpose, the amount of \$30,000,000 is appropriated out of the system benefit fund (GR Dedicated Account No. 5100) to the Public Utility Commission for the purpose of providing for the low income discount program.

SECTION _____. HEALTH AND HUMAN SERVICES COMMISSION: COMMUNITY-BASED PREVENTION AND INTERVENTION PROGRAMS. In addition to other amounts appropriated for the two year period beginning the effective date of this Act, that may be used for this purpose, the amount of \$4,000,000 is appropriated from the general revenue fund to the Health and Human Services Commission for the purpose of providing one time facility start up funds for a settlement house in northeast Houston. The funding is contingent on Harris County providing the operating costs for the facility and on the land for the facility being donated.

SECTION _____. ANGELO STATE UNIVERSITY: UTILITIES. In addition to amounts previously appropriated for the state fiscal biennium ending August 31, 2007, the amount of \$50,000 is appropriated out of the general revenue fund to Angelo State University for the two-year period beginning on the effective date of this Act for the purpose of making utility payments.

SECTION _____. HEALTH AND HUMAN SERVICES COMMISSION: REDUCTION IN CHILDREN'S HEALTH INSURANCE PROGRAM. The unencumbered appropriations from the general revenue fund appropriated to the Health and Human Services Commission for use during the fiscal year ending August 31, 2009, by House Bill 1, Eightieth Legislature, Regular Session, 2007, under Strategy C.1.1. for the Children's Health Insurance Program are reduced by the amount of \$15,700,000. Additionally, federal funds are reduced by an amount of \$40,400,000 under strategy C.1.1, CHIP for the fiscal year ending August 31, 2009.

SECTION _____. APPROPRIATION REDUCTION: TEXAS DEPARTMENT OF CRIMINAL JUSTICE The unencumbered appropriations from the general revenue fund appropriated to the Texas Department of Criminal Justice for use during the fiscal biennium ending August 31, 2009, by House Bill 1, Eightieth Legislature, Regular Session, 2007, under Strategy C.1.6., Institutional Operations and Maintenance, are reduced by the amount of \$27,000,000.

The amendment to **CSHB 15** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent-excused: Gallegos.

Senator Ogden offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSHB 15** (Senate committee printing) as follows:

(1) In existing SECTION 9 of the bill (page 2, lines 53-57), strike proposed subsection (b) and substitute:

(b) The appropriation made by Subsection (a) of this section is contingent upon the development of a suitable plan of reorganization approved by the Legislative Budget Board and the Governor or the placement of the university under conservatorship as defined by Government Code Chapter 2104.

The amendment to **CSHB 15** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2 except as follows:

Absent-excused: Gallegos.

Floor Amendment No. 3 was not offered.

Senator Carona offered the following amendment to the bill:

Floor Amendment No. 4

Amend **CSHB 15** (Senate committee printing) as follows:

(1) Add the following SECTION, numbered appropriately:

SECTION ___. TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS: WEATHERIZATION ASSISTANCE. In addition to other amounts appropriated to the Texas Department of Housing and Community Affairs for the state fiscal biennium ending August 31, 2007, there is appropriated to that department for the two-year period beginning on the effective date of this Act, for the purpose of weatherization assistance under Section 39.905, Utilities Code, the estimated amount of \$10,000,000 in receipts derived from orders of the Public Utility Commission of Texas that are designated for weatherization assistance in accordance with Section 39.905, Utilities Code. The amounts appropriated include all unexpended and unobligated amounts derived from those orders and received by the Texas Department of Housing and Community Affairs for that purpose before the effective date of this Act and all amounts received by the department derived from those orders for that purpose during the two-year period beginning on the effective date of this Act.

(2) Renumber subsequent SECTIONS of the bill accordingly.

The amendment to **CSHB 15** was read.

Senator Carona withdrew Floor Amendment No. 4.

Senator Van de Putte offered the following amendment to the bill:

Floor Amendment No. 5

Amend **CSHB 15** by adding the following appropriately numbered SECTIONS to the bill and renumbering the subsequent SECTIONS accordingly:

SECTION __. The vital importance of small businesses to the economy of this state and the well-being of its residents requires that it be the policy of this state to encourage the creation and location of small businesses in this state and promote opportunities for those businesses to prosper.

SECTION __. Section 481.078, Government Code, is amended by adding Subsection (k) to read as follows:

(k) To encourage the creation, development, and location of small businesses in this state, the governor shall consider making grants from the fund to recipients that are small businesses in this state or that commit to using the grants to create new small businesses in this state or relocate small businesses from outside the state to this state. For the purposes of this subsection, "small business" means a legal entity, including a corporation, partnership, or sole proprietorship, that:

(1) is formed for the purpose of making a profit;

(2) is independently owned and operated; and

(3) has fewer than 100 employees.

SECTION __. This Act takes effect September 1, 2007.

The amendment to **CSHB 15** was read.

Senator Van de Putte withdrew Floor Amendment No. 5.

On motion of Senator Ogden and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSHB 15 as amended was passed to third reading by a viva voce vote.

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

Nays: Patrick.

Absent-excused: Gallegos.

COMMITTEE SUBSTITUTE HOUSE BILL 15 ON THIRD READING

Senator Ogden moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 15** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Patrick.

Absent-excused: Gallegos.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 1. (Same as previous roll call)

HOUSE BILL 3873 ON SECOND READING

On motion of Senator West and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 3873** at this time on its second reading:

HB 3873, Relating to the administration of the Texas Department of Housing and Community Affairs; providing a penalty.

The bill was read second time.

Senator West offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 3873** (Senate committee printing) by striking SECTION 24, adding the following SECTIONS, and renumbering subsequent SECTIONS accordingly:

SECTION ____ Section 2306.111(c), Government Code, as amended by Chapters 1367 and 1448, Acts of the 77th Legislature, Regular Session, 2001, is reenacted and amended to read as follows:

(c) In administering federal housing funds provided to the state under the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. Section 12701 et seq.), the department shall expend:

(1) ~~[at least]~~ 95 percent of these funds for the benefit of non-participating small cities and rural areas that do not qualify to receive funds under the Cranston-Gonzalez National Affordable Housing Act directly from the United States Department of Housing and Urban Development; and

(2) five percent of these ~~[- All]~~ funds ~~[not set aside under this subsection shall be used]~~ for the benefit of persons with disabilities who live in any area of this state [areas other than non-participating areas].

SECTION ____ Section 2306.111, Government Code, is amended by amending Subsections (d-1):

(d-1) 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

(2) 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;

(3) the funds or credits are allocated by the department primarily to serve persons with disabilities.

SECTION ____ It is the intent of the legislature that the passage by the 80th Legislature, Regular Session, 2007, of another bill that amends Chapter 2306, Government Code, and the amendments made by this Act shall be harmonized, if possible, as provided by Section 311.025(b), Government Code, so that effect may be given to each. If the amendments made by this Act to Chapter 2306, Government Code, and the amendments made to Chapter 2306, Government Code, by any other

bill are irreconcilable, it is the intent of the legislature that this Act prevail, regardless of the relative dates of enactment of this Act and the other bill or bills, but only to the extent that any differences are irreconcilable.

SECTION ____ The changes in law made by this Act relating to the evaluation of applications for financial assistance administered by the Texas Department of Housing and Community Affairs apply only to an application submitted on or after the effective date of this Act. An application submitted before the effective date of this Act is governed by the law in effect when the application was submitted, and the former law is continued in effect for that purpose.

SECTION ____ The following provisions of the Government Code are repealed:

- (1) Sections 2306.021, 2306.062, 2306.0631, 2306.0661, 2306.0721(h), 2306.079, 2306.081(e), 2306.254, 2306.257(b), (c), and (d), and 2306.806;
- (2) Subchapter N, Chapter 2306;
- (3) Subchapter BB, Chapter 2306;
- (4) Subchapter CC, Chapter 2306; and
- (5) Subchapter EE, Chapter 2306.

The amendment to **HB 3873** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent-excused: Gallegos.

On motion of Senator West and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 3873 as amended was passed to third reading by a viva voce vote.

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

Absent-excused: Gallegos.

HOUSE BILL 3873 ON THIRD READING

Senator West moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3873** be placed on its third reading and final passage.

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

Absent-excused: Gallegos.

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

COMMITTEE SUBSTITUTE HOUSE BILL 1565 ON SECOND READING

On motion of Senator Uresti and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 1565** at this time on its second reading:

CSHB 1565, Relating to the governing body, boundaries, and functions of the Bexar Metropolitan Water District.

The bill was read second time.

Senator Uresti offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 1565**, beginning on page 1, line 19, by striking all below the relating clause and substituting the following:

ARTICLE I

SECTION 1.1. Section 3, Chapter 306, Acts of the 49th Legislature, Regular Session, 1945, is amended to read as follows:

Sec. 3. In addition to the powers vested by the Constitution and general laws in such public agency for the greatest practicable measure of the conservation, preservation, and beneficial utilization of its public waters, the power to control and utilize its public waters and to regulate the disposal and the disposal of sewage, waste, and refuse, the District shall have the following general powers:

(a) Through every practical and legal means to develop, transport, deliver, distribute, store, and treat water for use within the District, including the storm and flood waters within the District, including the power to cooperate with the United States Government or any agency thereof, or any municipality, public, quasi-public or private agency and to contract, negotiate, and enter into agreements with any one or more of such agencies in effecting such purposes;

~~(b) [to store, control, and conserve storm and flood waters of its rivers and streams and to prevent the escape of any such waters without first obtaining therefrom a maximum of public service; to prevent devastation of property from overflow and to protect life and property from uncontrolled flood and storm waters;~~

~~(c)~~ [e] to conserve and distribute waters essential for domestic and other uses by the inhabitants of the District, including necessary water supply for cities and towns situated within the District;

~~(c) [(d) to provide for the development of drainage systems to control, regulate, and dispose of all storm and flood waters of the District so as to protect effectively lives and property, and to utilize such waters for each and every purpose for which flood and storm waters when controlled, conserved, or regulated may be utilized as contemplated by the Constitution and the public policy therein declared;~~

~~(e)~~ [e] to provide by purchase, construction, lease, gift, or in any other manner and to operate any and all facilities deemed by the District essential for preserving the purity of all the surface and underground waters of the District for the protection of the health of its inhabitants, and to formulate plans to make and enforce rules and regulations for the effective disposal of any and all sewage wastes, refuse, or residuum, however accumulated; which otherwise would contaminate, pollute, or render unsafe and insanitary the surface and underground waters of the District and which might threaten or impair the health of its inhabitants or which might adversely affect the health of the inhabitants downstream below the District;

~~(d) [(f)]~~ [f] to acquire by purchase, construction, lease, gift, or in any other manner (otherwise than by condemnation) and to maintain, use, and operate any and all property of any kind, real, personal, or mixed, or any interest therein within or

without the boundaries of the District deemed by its Board of Directors necessary or convenient to the exercise of the powers, rights, privileges, and functions conferred upon it by this Act;

(e) [~~(e)~~] to acquire by condemnation any and all property of any kind, real, personal, or mixed, or any interest therein, within or outside of the boundaries of the District, necessary to the exercise of the powers, rights, privileges, and functions conferred by this Act, in the manner provided by General Law relative to condemnation, or at the option of the District, in the manner provided by law with respect to condemnation by agencies organized pursuant to Section 59, Article 16 of the Constitution of the State of Texas; provided that the District shall not have the right or power to so condemn any such property that may be owned by any other political subdivision, city, or town located within the District;

(f) [~~(f)~~] to cooperate, contract, and enter into agreements with towns, cities, districts, or political subdivisions located in or outside of the District and with Bexar County, in the construction, purchase, lease, maintenance, improvement, use, and operation of any and all facilities, works, and plants necessary or convenient to the accomplishment of the purposes for which the District was created;

(g) [~~(g)~~] to make contracts with any person, private corporation, municipal corporation, political subdivision, or the Board of Trustees thereof, operating water distribution facilities for the benefit of a city or town within the District, under which the District may perform services for such parties or such parties may perform services for the District, or under which either may operate all or any part of the facilities of the other, having due regard for the duties and obligations of such parties in the instrument prescribing their or its duties;

(h) [~~(h)~~] to construct, extend, improve, maintain, and reconstruct, to cause to be constructed, extended, improved, maintained, or reconstructed and to use and operate any and all facilities of any kind necessary or convenient to the exercise of the powers, rights, privileges, and functions conferred by this Act;

(i) [~~(i)~~] to sue and be sued in its corporate name;

(j) [~~(j)~~] to make by-laws for the management and regulation of its affairs conformably to the powers and purposes herein conferred and consistent with the Constitution of this State;

(k) [~~(k)~~] to make rules and regulations and to prescribe penalties for the breach of any rule or regulation of the District, which penalties shall not exceed fines of more than Two Hundred Dollars (\$200), or imprisonment for more than thirty (30) days, or may provide both such fine and such imprisonment. The penalties hereby authorized shall be in addition to any other penalties provided by the laws of Texas and may be enforced by complaints filed in the appropriate court of jurisdiction in the county in which the district's principal office is located; provided, however, that no rule or regulation which provides a penalty for the violation thereof shall be in effect, as to enforcement of the penalty, until five days next after the district may have caused a substantive statement of the particular rule or regulation and the penalty for the violation thereof to be published, once a week for two consecutive weeks, in one or more newspapers affording general circulation in the area in which the property of the district is situated; and, the substantive statement so to be published shall be as condensed as is possible to afford an intelligent direction of the mind to the object

sought to be accomplished or the act forbidden by the rule or regulation; one notice may embrace any number of regulations; there must be embraced in the notice advice that breach of the particular regulation, or regulations, will subject the violator to the infliction of a penalty and there also shall be included in the notice advice that the full text of the regulation sought to be enforced is on file in the principal office of the District, where the same may be read by any interested person. Five (5) days after the second publication of the notice hereby required, the advertised regulation shall be in effect, and ignorance of any such regulation shall not constitute a defense to a prosecution for the enforcement of a penalty; and, the rules and regulations authorized hereby, after the required publication, shall judicially be known to the courts and shall be considered of a nature like unto that of valid penal ordinances of a city of the State;

(l) [~~(h)~~] to adopt, use, and alter a corporate seal;

(m) [~~(i)~~] to appoint agents and employees; prescribe their duties and fix their compensation;

(n) [~~(j)~~] to make contracts and execute instruments necessary or convenient to the exercise of the powers, rights, privileges, and functions herein conferred;

(o) [~~(k)~~] to borrow money for its authorized purposes, to accept grants or loans or allotments from the United States Government or any of its agencies, or others, and in connection with any such grants, loans, or allotments to enter into such agreements as may be required to make them effective, and for the purpose of obtaining funds to issue its negotiable tax bonds and its negotiable revenue bonds in the manner and to the extent hereinafter provided;

(p) [~~(l)~~] to operate and maintain with consent of the governing body of any city, town, or political subdivision located in the District any works, plants, or facilities deemed necessary or convenient to the accomplishment of the purposes for which the District is created;

(q) [~~(m)~~] to enter into planning agreements with the Texas Water Development Board under Subchapter C, Chapter 16, Water Code, for the purpose of conducting studies necessary to maintain retail water supply services to customers within the boundaries of the District; and

(r) [~~(n)~~] to cooperate with and support local fire departments and economic development activities sponsored by local entities within the District that use water and water resources provided, or to be provided, by the District.

SECTION 1.2. Chapter 306, Acts of the 49th Legislature, Regular Session, 1945, is amended by adding Section 27D to read as follows:

Sec 27D. (a) No later than 120 days after the text of this section becomes effective, the District shall:

(1) produce a report of an assessment of the operations and maintenance condition of the District;

(2) produce a status report of infrastructure improvements under construction;

(3) produce a report addressing the District's provision of water meeting Texas Commission on Environmental Quality ("TCEQ") pressure and quality standards.

(4) provide a report on customer service response time.

(5) produce a report certifying any rate structure changes approved by the District and documenting a schedule for future changes to rate structure anticipated by the District; and

(6) deliver these reports to the Utilities and District's section of the "TCEQ" and the legislative oversight committee.

(b) No later than 180 days after the text of this section becomes effective, the District shall produce an assessment of the District's financial condition and present it to the Utilities and District's section of the "TCEQ" and the legislative oversight committee.

(c) No later than 240 days after the text of this section becomes effective, the District shall:

(1) produce a report of necessary improvements to the system and a schedule for the implementation of those improvements to ensure all service area improvements are included in the Capital Improvement Plan ("CIP") and all service areas have defined Operating and Management ("O&M") projects programmed to repair or replace existing aged infrastructure;

(2) produce a report on the sustainability and adequacy of the water resources of the District and a plan for obtaining additional water resources if deficiencies exist; and

(3) deliver these reports to the Utilities and District's section of the "TCEQ" and the legislative oversight committee.

(d) No later than one year after the text of this section becomes effective, the District shall:

(1) produce a report on service delivery improvements that have been completed and that are in progress;

(2) produce a report identifying all service improvements necessary for the system and a schedule for the completion of those improvements; and

(3) deliver these reports to the Utilities and District's section of the "TCEQ" and the legislative oversight committee.

SECTION 1.3. Chapter 306, Acts of the 49th Legislature, Regular Session, 1945, is amended by adding Section 32 to read as follows:

Sec. 32. (a) The District shall permit a customer to pay a bill at one or more retail locations in the District.

(b) The District may not close a customer service branch that is in operation on June 1, 2007 unless a comparable customer service branch is opened. This subsection expires September 1, 2012.

SECTION 1.4. Chapter 306, Acts of the 49th Legislature, Regular Session, 1945, is amended to add a new Section 27A, as follows:

Sec. 27A. The District shall submit to the Legislative Oversight Committee the following:

(a) a schedule for achieving the objectives set out in Section 27D within six months of the date the text of this Section becomes effective;

(b) evidence that the District has completed its three-year plan of improvements as adopted by the board of directors of the District prior to the effective date of this Act within one and one half years from the date the text of this Section becomes effective;

(c) current year audited annual financial statements indicating the financial condition of the district within thirty (30) days of completion;

(d) a written projection of all rate and fee increases for three years following the effective date of this Act within six months of the date the text of this Section becomes effective;

(e) a report summarizing the District's efforts to facilitate transition of service areas outside of Bexar and Atascosa County to other qualified local water utility service providers;

(f) any documentation or materials used in conducting a standard managerial and financial audit; and

(g) any other information the legislative oversight committee requests.

SECTION 1.5. Chapter 306, Acts of the 49th Legislature, Regular Session, 1945, is amended to add a new Section 27C, as follows:

Sec. 27C. The District shall maintain a rate structure that promotes and encourages conservation of water and provides for lower rates for customers using lower quantities of water.

SECTION 1.6. Chapter 306, Acts of the 49th Legislature, Regular Session, 1945, is amended to add a new Section 27(E), as follows:

Sec. 27E. The District shall implement an appeal and grievance process for employees of the District.

ARTICLE II

SECTION 2.1. Chapter 306, Acts of the 49th Legislature, Regular Session, 1945, is amended by adding Section 33A as follows:

Sec. 33A. LEGISLATIVE OVERSIGHT COMMITTEE. (a) In recognition of the important goal of the state in providing safe and efficient water supply services to the customers of the District and the necessity for state oversight and regulation of the District to ensure the achievement of this goal there is created the Bexar Metropolitan Water District Legislative Oversight Committee.

(b) The legislative oversight committee shall monitor the progress of the district in maintaining a rate structure that conserves water, provides adequate service to low-income customers, and assists in creating uniform rates among water utility providers in the region; the legislative oversight committee also shall monitor the quality of service provided by the district; monitor the plans by the district to provide for sustainability of water resources and plan for infrastructure needs; identify regulatory and statutory barriers to achievement of the district's goals, and make recommendations to the Legislature, if necessary; and perform any other oversight function deemed appropriate by the legislative oversight committee.

(c) The legislative oversight committee is comprised of 3 members appointed to represent the following members:

(1) the Senator sponsor of this Act, or, in the event this Senator cannot serve, a Senator appointed by the Lieutenant Governor;

(2) the House author of this Act, or, in the event this Representative cannot serve, a Representative appointed by the Speaker of the Texas House of Representatives; and

(3) one member with special expertise in the operation of public water utilities appointed by the Governor.

(d) A member of the legislative oversight committee is not entitled to receive compensation for service on the legislative oversight committee but is entitled to reimbursement of the travel expenses incurred by the member while conducting the business of the legislative oversight committee, as provided by the General Appropriations Act.

(e) The Legislative Oversight Committee shall prepare a comprehensive report to the House and Senate Natural Resources Committee on its findings and recommendations concerning the District's ability to meet service and financial standards and any legislative changes needed in the District's authority or governance.

(f) The District shall provide staff support for the legislative oversight committee.

SECTION 2.2. STATE AUDIT. Subject to approval by the Legislative Audit Committee for inclusion in the annual audit plan, the State Auditor shall conduct a financial and managerial audit of the District upon passage of this Act and submit the findings from the audit in a written report to the members of the Legislative Oversight Committee, the Board of Directors of the District, and the Texas Legislature. The District shall cooperate and provide assistance and access to all necessary records, confidential or unconfidential, to the state auditor in conducting the audit pursuant to this Section. The District shall reimburse the state auditor for the cost of performing the audit.

SECTION 2.3. (a) The legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor, one of the required recipients, has submitted the notice and Act to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this Act with the governor, the lieutenant governor, and the speaker of the house of representatives within the required time.

(d) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.

SECTION 2.4. Notwithstanding any other provision of this act, nothing herein shall impair any Canyon Regional Water Authority project contract, project financing obligation issued or to be issued wherein the Bexar Metropolitan Water District is a CRWA member entity project participant.

SECTION 2.5. This Act takes effect September 1, 2007.

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The amendment to **CSHB 1565** was read.

Senator Uresti offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 2

Amend Floor Amendment No. 1 to **CSHB 1565** as follows:

(1) On page 12, line 8, strike "September 1, 2007" and insert "January 1, 2008"

The amendment to Floor Amendment No. 1 to **CSHB 1565** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2 except as follows:

Absent-excused: Gallegos.

Question recurring on the adoption of Floor Amendment No. 1 to **CSHB 1565**, the amendment as amended was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 as amended except as follows:

Absent-excused: Gallegos.

On motion of Senator Uresti and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSHB 1565 as amended was passed to third reading by a viva voce vote.

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

Absent-excused: Gallegos.

COMMITTEE SUBSTITUTE HOUSE BILL 1565 ON THIRD READING

Senator Uresti moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1565** be placed on its third reading and final passage.

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

Absent-excused: Gallegos.

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

HOUSE BILL 2427 ON SECOND READING

On motion of Senator Whitmire and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2427** at this time on its second reading:

HB 2427, Relating to the continuation and functions of the Teacher Retirement System of Texas; providing penalties.

The bill was read second time and was passed to third reading by a viva voce vote.

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

Absent-excused: Gallegos.

HOUSE BILL 2427 ON THIRD READING

Senator Whitmire moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2427** be placed on its third reading and final passage.

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

Absent-excused: Gallegos.

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

STATEMENT OF LEGISLATIVE INTENT

Senator Ellis submitted the following statement of legislative intent for **HB 2427**:

Senator Ellis: I brought up an amendment in committee that would have clarified that the definition of "qualified investment products" in Section 17 of your bill includes regulations and guidance issued under the 403(b) of the Internal Revenue Code. The current definition does not specifically include the regulations and the guidance issued by the Internal Revenue Service to interpret the code and regulations. With the IRS on the verge of adopting new regulations under 403(b) IRC, and since guidance will surely follow regarding areas of the law and the new regulations that need clarification, I wanted to be sure that the "requirements" indeed include the regulations and guidance issued by the IRS. I am told that the drafters of this bill and TRS view the regulations and guidance as implicitly part of the "requirements" described in your bill. Rather than offering my amendment, could you affirm that the language is meant to include the IRS regulations and guidance issued in accordance with 403(b) Internal Revenue Code?

Senator Whitmire: That is our understanding and intention.

HOUSE BILL 3168 ON SECOND READING

Senator Estes moved to suspend the regular order of business to take up for consideration **HB 3168** at this time on its second reading:

HB 3168, Relating to incentives for and the regulation of biofuel production and distribution in this state.

The motion prevailed by the following vote: Yeas 22, Nays 7.

Yeas: Averitt, Brimer, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Hegar, Hinojosa, Lucio, Nelson, Nichols, Patrick, Seliger, Shapiro, Uresti, Van de Putte, Wentworth, Whitmire, Williams, Zaffirini.

Nays: Ellis, Harris, Jackson, Ogden, Shapleigh, Watson, West.

Absent: Janek.

Absent-excused: Gallegos.

The bill was read second time.

Senator Estes offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 3168** by striking all below the enacting clause and substituting the following:

SECTION 1. Chapter 16, Agriculture Code, is amended by adding Section 16.007 to read as follows:

Sec. 16.007. REGULATION OF FUEL ETHANOL OR BIODIESEL IN A MANNER MORE STRINGENT THAN FEDERAL LAW. (a) In this section, "state agency" has the meaning assigned by Section 315.002, Government Code.

(b) Except as provided by this section and the Reid vapor pressure requirements for gasoline used as control measures in the state implementation plan, a state agency may not adopt or implement rules in a manner that restricts the production or distribution of fuel ethanol or biodiesel if the rules impose a restriction more stringent than federal law provides.

(c) After July 1st, 2008, Subsection (b) does not apply to a rule adopted by the Texas Commission on Environmental Quality if that commission determines that, without imposing the restriction provided by the rule, emissions generated by using fuel ethanol or biodiesel will jeopardize compliance with the state implementation plan for attaining national ambient air quality standards.

(d) Subsection (b) does not apply if:

(1) the United States Environmental Protection Agency determines that compliance with that subsection will result in noncompliance with the state implementation plan for attaining national ambient air quality standards; or

(2) producers of biodiesel fail to provide proof on or before July 1st, 2008, of testing that:

(A) demonstrates compliance with the Texas Low Emission Diesel Program; and

(B) was conducted in accordance with protocols approved by the Texas Commission on Environmental Quality.

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, 2007.

The amendment to **HB 3168** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent-excused: Gallegos.

Senator Hegar offered the following amendment to the bill:

Floor Amendment No. 2

Amend **HB 3168** (Senate committee printing) by adding the following by adding the following appropriately numbered SECTIONS and renumbering subsequent SECTIONS accordingly:

SECTION _____. Section 162.001, Tax Code, is amended by amending Subdivisions (7) and (19) and adding Subdivision (53-a) to read as follows:

(7) "Biodiesel fuel" has the meaning assigned to "biodiesel" by Section 16.001, Agriculture Code ~~means any motor fuel or mixture of motor fuels that is:~~

~~[(A) derived wholly or partly from agricultural products, vegetable oils, recycled greases, or animal fats, or the wastes of those products or fats; and~~

~~[(B) advertised, offered for sale, suitable for use, or used as a motor fuel in an internal combustion engine].~~

(19) "Diesel fuel" means kerosene or another liquid, or a combination of liquids blended together, that is suitable for or used for the propulsion of diesel-powered motor vehicles. The term includes products commonly referred to as kerosene, light cycle oil, #1 diesel fuel, #2 diesel fuel, dyed or undyed diesel fuel, aviation jet fuel, renewable diesel, biodiesel, distillate fuel, cutter stock, or heating oil, but does not include gasoline, aviation gasoline, or liquefied gas.

(53-a) "Renewable diesel" has the meaning assigned by Section 16.001, Agriculture Code.

SECTION _____. Subsection (a), Section 162.204, Tax Code, is amended to read as follows:

(a) The tax imposed by this subchapter does not apply to:

(1) diesel fuel sold to the United States for its exclusive use, provided that the exemption does not apply to diesel fuel sold or delivered to a person operating under a contract with the United States;

(2) diesel fuel sold to a public school district in this state for the district's exclusive use;

(3) diesel fuel sold to a commercial transportation company that provides public school transportation services to a school district under Section 34.008, Education Code, and that uses the diesel fuel only to provide those services;

(4) diesel fuel exported by either a licensed supplier or a licensed exporter from this state to any other state, provided that:

(A) for diesel fuel in a situation described by Subsection (d), the bill of lading indicates the destination state and the supplier collects the destination state tax; or

(B) for diesel fuel in a situation described by Subsection (e), the bill of lading indicates the destination state, the diesel fuel is subsequently exported, and the exporter is licensed in the destination state to pay that state's tax and has an exporter's license issued under this subchapter;

(5) diesel fuel moved by truck or railcar between licensed suppliers or licensed permissive suppliers and in which the diesel fuel removed from the first terminal comes to rest in the second terminal, provided that the removal from the second terminal rack is subject to the tax imposed by this subchapter;

(6) diesel fuel delivered or sold into a storage facility of a licensed aviation fuel dealer from which the diesel fuel will be delivered solely into the fuel supply tanks of aircraft or aircraft servicing equipment, or sold from one licensed aviation fuel dealer to another licensed aviation fuel dealer who will deliver the diesel fuel exclusively into the fuel supply tanks of aircraft or aircraft servicing equipment;

(7) diesel fuel exported to a foreign country if the bill of lading indicates the foreign destination and the fuel is actually exported to the foreign country;

(8) dyed diesel fuel sold or delivered by a supplier to another supplier and dyed diesel fuel sold or delivered by a supplier or distributor into the bulk storage facility of a dyed diesel fuel bonded user or to a purchaser who provides a signed statement as provided by Section 162.206;

(9) the volume of water, fuel ethanol, renewable diesel, biodiesel, or mixtures thereof that are blended together with taxable diesel fuel when the finished product sold or used is clearly identified on the retail pump, storage tank, and sales invoice as a combination of diesel fuel and water, fuel ethanol, renewable diesel, biodiesel, or mixtures thereof;

(10) dyed diesel fuel sold by a supplier or permissive supplier to a distributor, or by a distributor to another distributor;

(11) dyed diesel fuel delivered by a license holder into the fuel supply tanks of railway engines, motorboats, or refrigeration units or other stationary equipment powered by a separate motor from a separate fuel supply tank;

(12) dyed kerosene when delivered by a supplier, distributor, or importer into a storage facility at a retail business from which all deliveries are exclusively for heating, cooking, lighting, or similar nonhighway use; or

(13) diesel fuel used by a person, other than a political subdivision, who owns, controls, operates, or manages a commercial motor vehicle as defined by Section 548.001, Transportation Code, if the fuel:

(A) is delivered exclusively into the fuel supply tank of the commercial motor vehicle; and

(B) is used exclusively to transport passengers for compensation or hire between points in this state on a fixed route or schedule.

SECTION _____. The heading to Chapter 16, Agriculture Code, is amended to read as follows:

CHAPTER 16. FUEL ETHANOL, ~~AND~~ BIODIESEL, AND RENEWABLE DIESEL PRODUCTION INCENTIVE PROGRAM

SECTION _____. Section 16.001, Agriculture Code, is amended by amending Subdivisions (1), (3), and (6) and adding Subdivision (7) to read as follows:

(1) "Account" means the fuel ethanol, ~~and~~ biodiesel, and renewable diesel production account.

(3) "Biodiesel" means a motor fuel that:

(A) meets the registration requirements for fuels and fuel additives established by the United States Environmental Protection Agency under Section 211 of the federal Clean Air Act (42 U.S.C. Section 7545);

(B) is mono-alkyl esters of long chain fatty acids derived from vegetable oils and animal fats;

(C) meets the requirements of ASTM specification D-6751;

(D) is intended for use in engines that are designed to run on conventional, petroleum-derived diesel fuel; and

(E) is derived from agricultural products, vegetable oils, recycled greases, biomass, or animal fats or the wastes of those products or fats ~~(a monoalkyl ester that:~~

~~[(A) is derived from vegetable oils, rendered animal fats, or renewable lipids or a combination of those ingredients; and~~

~~[(B) meets the requirements of ASTM PS 121, the provisional specification for biodiesel].~~

(6) "Producer" means a person who operates a fuel ethanol, ~~[or]~~ biodiesel, or renewable diesel plant in this state.

(7) "Renewable diesel" means a motor fuel that:

(A) meets the registration requirements for fuels and fuel additives established by the United States Environmental Protection Agency under Section 211 of the federal Clean Air Act (42 U.S.C. Section 7545);

(B) is a hydrocarbon;

(C) meets the requirements of ASTM specification D-975;

(D) is intended for use in engines that are designed to run on conventional, petroleum-derived diesel fuel; and

(E) is derived from agricultural products, vegetable oils, recycled greases, biomass, or animal fats or the wastes of those products or fats.

SECTION ____. Subsections (a) and (b), Section 16.002, Agriculture Code, are amended to read as follows:

(a) To be eligible for a grant for fuel ethanol, ~~[or]~~ biodiesel, or renewable diesel produced in a plant, a producer must apply to the office for the registration of the plant. A producer may apply for the registration of more than one plant.

(b) An application for the registration of a plant must show to the satisfaction of the office that:

(1) the plant is capable of producing fuel ethanol, ~~[or]~~ biodiesel, or renewable diesel;

(2) the producer has made a substantial investment of resources in this state in connection with the plant; and

(3) the plant constitutes a permanent fixture in this state.

SECTION ____. Subsection (a), Section 16.003, Agriculture Code, is amended to read as follows:

(a) On or before the fifth day of each month, a producer shall report to the office on:

(1) the number of gallons of fuel ethanol, ~~[or]~~ biodiesel, or renewable diesel produced at each registered plant operated by the producer during the preceding month;

(2) the number of gallons of fuel ethanol, ~~[or]~~ biodiesel, or renewable diesel imported into this state by the producer during the preceding month;

(3) the number of gallons of fuel ethanol, ~~[or]~~ biodiesel, or renewable diesel sold or blended with motor fuels by the producer during the preceding month; and

(4) the total value of agricultural products consumed in each registered plant operated by the producer during the preceding month.

SECTION ____. The heading to Section 16.004, Agriculture Code, is amended to read as follows:

Sec. 16.004. FUEL ETHANOL, ~~[AND]~~ BIODIESEL, AND RENEWABLE DIESEL PRODUCTION ACCOUNT.

SECTION _____. Subsection (a), Section 16.004, Agriculture Code, is amended to read as follows:

(a) The fuel ethanol, ~~and~~ biodiesel, and renewable diesel production account is an account in the general revenue fund that may be appropriated only to the office for the purposes of this chapter, including the making of grants under this chapter.

SECTION _____. The heading to Section 16.005, Agriculture Code, is amended to read as follows:

Sec. 16.005. FEE ON FUEL ETHANOL, ~~AND~~ BIODIESEL, AND RENEWABLE DIESEL PRODUCTION.

SECTION _____. Subsections (a), (b), and (d), Section 16.005, Agriculture Code, are amended to read as follows:

(a) The office shall impose a fee on each producer in an amount equal to 3.2 cents for each gallon of fuel ethanol, ~~or~~ biodiesel, or renewable diesel produced in each registered plant operated by the producer.

(b) For each fiscal year, the office may not impose fees on a producer for more than 18 million gallons of fuel ethanol, ~~or~~ biodiesel, or renewable diesel produced at any one registered plant.

(d) The office may not impose fees on a producer for fuel ethanol, ~~or~~ biodiesel, or renewable diesel produced at a registered plant after the 10th anniversary of the date production from the plant begins.

SECTION _____. The heading to Section 16.006, Agriculture Code, is amended to read as follows:

Sec. 16.006. FUEL ETHANOL, ~~AND~~ BIODIESEL, AND RENEWABLE DIESEL GRANTS.

SECTION _____. Subsections (a), (b), (c), and (e), Section 16.006, Agriculture Code, are amended to read as follows:

(a) The office, after consultation with the department, shall make grants to producers as an incentive for the development of the fuel ethanol, ~~and~~ biodiesel, and renewable diesel industry and agricultural production in this state.

(b) A producer is entitled to receive from the account 20 cents for each gallon of fuel ethanol, ~~or~~ biodiesel, or renewable diesel produced in each registered plant operated by the producer until the 10th anniversary of the date production from the plant begins.

(c) For each fiscal year a producer may not receive grants for more than 18 million gallons of fuel ethanol, ~~or~~ biodiesel, or renewable diesel produced at any one registered plant.

(e) If the office determines that the amount of money credited to the account is not sufficient to distribute the full amount of grant funds to eligible producers as provided by this chapter for a fiscal year, the office shall proportionately reduce the amount of each grant for each gallon of fuel ethanol, ~~or~~ biodiesel, or renewable diesel produced as necessary to continue the incentive program during the remainder of the fiscal year.

SECTION _____. The change in law made by Section 2 of this Act does not affect tax liability accruing before the effective date of this Act. That liability continues in effect as if this Act had not been enacted, and the former law is continued in effect for the collection of taxes due and for civil and criminal enforcement of the liability for those taxes.

SECTION _____. The change in law made by this Act to Chapter 16, Agriculture Code, applies only to a fee that is imposed on or after the effective date of this Act. A fee that is imposed before the effective date of this Act is governed by the law in effect when the fee was imposed, and that law is continued in effect for that purpose.

The amendment to **HB 3168** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2 except as follows:

Absent-excused: Gallegos.

On motion of Senator Estes and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 3168 as amended was passed to third reading by the following vote: Yeas 18, Nays 10.

Yeas: Averitt, Deuell, Duncan, Eltife, Estes, Fraser, Hegar, Hinojosa, Lucio, Nelson, Nichols, Seliger, Shapiro, Uresti, Van de Putte, Wentworth, Williams, Zaffirini.

Nays: Brimer, Ellis, Harris, Jackson, Ogden, Patrick, Shapleigh, Watson, West, Whitmire.

Absent: Carona, Janek.

Absent-excused: Gallegos.

MOTION TO PLACE HOUSE BILL 3168 ON THIRD READING

Senator Estes moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3168** be placed on its third reading and final passage.

The motion was lost by the following vote: Yeas 18, Nays 10. (Not receiving four-fifths vote of Members present)

Yeas: Averitt, Deuell, Duncan, Eltife, Estes, Fraser, Hegar, Hinojosa, Lucio, Nelson, Nichols, Seliger, Shapiro, Uresti, Van de Putte, Wentworth, Williams, Zaffirini.

Nays: Brimer, Ellis, Harris, Jackson, Ogden, Patrick, Shapleigh, Watson, West, Whitmire.

Absent: Carona, Janek.

Absent-excused: Gallegos.

**SENATE RULE 7.25 SUSPENDED
(Limitation on Vote)**

On motion of Senator Watson and by unanimous consent, Senate Rule 7.25, as it relates to the passage of any bill on third reading after the 135th calendar day of a regular session, was suspended until 2:00 a.m.

HOUSE BILL 4 ON SECOND READING

On motion of Senator Averitt and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 4** at this time on its second reading:

HB 4, Relating to water conservation.

The bill was read second time.

Senator Averitt offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **HB 4** by striking SECTIONS 6 and 16 of the bill (engrossed version, page 7, line 18, through page 8, line 6, and page 13, lines 14 through 21, respectively) and renumbering the remaining SECTIONS of the bill accordingly.

The amendment to **HB 4** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Committee Amendment No. 1 except as follows:

Absent-excused: Gallegos.

Floor Amendment No. 1 was not offered.

Senator Averitt offered the following amendment to the bill:

Floor Amendment No. 2

Amend **HB 4** (Senate committee printing) as follows:

(1) In the recital to SECTION 11 of the bill (page 5, line 12), strike "Subsection (c-1)" and substitute "Subsections (c-1) and (c-2)".

(2) In SECTION 11 of the bill, immediately following proposed Section 447.004(c-1), Government Code (page 5, between lines 22 and 23), insert the following:

(c-2) The procedural standards required by Subsection (c-1) do not apply to a building if the state agency or institution of higher education constructing the building:

(1) determines that compliance with those standards is impractical; and
(2) notifies the state energy conservation office of the determination and provides to the office documentation supporting the determination.

The amendment to **HB 4** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2 except as follows:

Absent-excused: Gallegos.

Senator Averitt offered the following amendment to the bill:

Floor Amendment No. 3

Amend **HB 4** (Senate committee printing) by striking SECTION 20 of the bill and substituting the following:

SECTION 20. (a) Except as provided by Subsections (b) and (c) of this section, 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. Except as provided by Subsections (b) and (c) of this section, if this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

(b) Except as provided by Subsection (c) of this section, Section 11 of this Act takes effect September 1, 2009.

(c) This Act takes effect only if Senate Bill No. 3, Acts of the 80th Legislature, Regular Session, 2007, is enacted and becomes law.

The amendment to **HB 4** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 3 except as follows:

Absent-excused: Gallegos.

Senator Averitt offered the following amendment to the bill:

Floor Amendment No. 4

Amend **HB 4** by adding the following appropriately numbered SECTIONS:

SECTION __. Section 151.355, Tax Code, is amended to read as follows:

Sec. 151.355. WATER-RELATED EXEMPTIONS. The following are exempted from taxes imposed by this chapter:

(1) rainwater harvesting equipment or supplies, water recycling and reuse equipment or supplies, or other equipment, services, or supplies used solely to reduce or eliminate water use;

(2) equipment, services, or supplies used solely for desalination of surface water or groundwater;

(3) equipment, services, or supplies used solely for brush control designed to enhance the availability of water;

(4) equipment, services, or supplies used solely for precipitation enhancement;

(5) equipment, services, or supplies used solely to construct or operate a water or wastewater system certified by the Texas Commission on Environmental Quality as a regional system; ~~and~~

(6) equipment, services, or supplies used solely to construct or operate a water supply or wastewater system by a private entity as a public-private partnership as certified by the political subdivision that is a party to the project; and

(7) tangible personal property specifically used to process, reuse, or recycle wastewater that will be used in fracturing work performed at an oil or gas well.

SECTION __. The change in law made by SECTION __ of this Act to Section 151.355, Tax Code, does not affect taxes imposed before the effective date of this Act, and the law in effect before the effective date of this Act is continued in effect for purposes of the liability for and collection of those taxes.

The amendment to **HB 4** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 4 except as follows:

Absent-excused: Gallegos.

Senator Shapleigh offered the following amendment to the bill:

Floor Amendment No. 5

Amend **HB 4** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION __. (a) In this section, "board" means the Texas Water Development Board.

(b) The board, in coordination with the Far West Texas Regional Water Planning Group established pursuant to Section 16.053, Water Code, shall conduct a study regarding the possible impact of climate change on surface water supplies from the Rio Grande.

(c) In conducting the study, the board shall convene a conference within the Far West Texas regional water planning area designated pursuant to Section 16.053, Water Code, to review:

(1) any analysis conducted by a state located to the west of this state regarding the impact of climate change on surface water supplies in that state;

(2) any other current analysis of potential impacts of climate change on surface water resources; and

(3) recommendations for incorporation of potential impacts of climate change into the Far West Texas Regional Water Plan, including potential impacts to the Rio Grande in Texas subject to the Rio Grande Compact and identification of feasible water management strategies to offset any potential impacts.

(d) The conference should include, but not be limited to, the participation of representatives of:

(1) the Far West Texas Regional Water Planning Group;

(2) water authorities;

(3) industrial customers;

(4) agricultural interests;

(5) municipalities;

(6) fishing or recreational interests;

(7) environmental advocacy organizations; and

(8) institutions of higher education.

(e) Not later than December 31, 2008, the board shall submit to the legislature a written report regarding the study findings under Subsection (b) of this section.

The amendment to **HB 4** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 5 except as follows:

Absent-excused: Gallegos.

Senator Wentworth offered the following amendment to the bill:

Floor Amendment No. 6

Amend **HB 4** between the enacting clause and SECTION 1 of the bill by inserting the following SECTIONS and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION 1. Subtitle F, Title 6, Special District Local Laws Code, is amended by adding Chapter 8269 to read as follows:

CHAPTER 8269. TRUE RANCH MUNICIPAL UTILITY DISTRICT NO. 1

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8269.001. DEFINITIONS. In this chapter:

(1) "Board" means the board of directors of the district.

(2) "Director" means a board member.

(3) "District" means the True Ranch Municipal Utility District No. 1.

Sec. 8269.002. NATURE OF DISTRICT. The district is a municipal utility district in Hays County created under and essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

Sec. 8269.003. CONFIRMATION ELECTION REQUIRED. If the creation of the district is not confirmed at a confirmation election held under Section 8269.023 before September 1, 2012:

(1) the district is dissolved September 1, 2012, except that:

(A) any debts incurred shall be paid;

(B) any assets that remain after the payment of debts shall be transferred to Hays County; and

(C) the organization of the district shall be maintained until all debts are paid and remaining assets are transferred; and

(2) this chapter expires September 1, 2015.

Sec. 8269.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) All land and other property in the district will benefit from the works and projects to be accomplished by the district under powers conferred by Section 59, Article XVI, Texas Constitution.

(b) The district is created to serve a public use and benefit.

Sec. 8269.005. INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section 2 of the act creating this chapter.

(b) The boundaries and field notes contained in Section 2 of the act creating this chapter form a closure. A mistake made in the field notes or in copying the field notes in the legislative process does not affect:

(1) the organization, existence, or validity of the district;

(2) the right of the district to impose taxes;

(3) the right of the district to issue bonds, notes, or other indebtedness or to pay the principal of and interest on a bond;

(4) the validity of the district's bonds, notes, or other indebtedness; or

(5) the legality or operation of the district or the board.

[Sections 8269.006-8269.020 reserved for expansion]

SUBCHAPTER A-1. TEMPORARY PROVISIONS

Sec. 8269.021. TEMPORARY DIRECTORS. (a) On or after September 1, 2007, a person who owns land in the district may submit a petition to the Texas Commission on Environmental Quality requesting that the commission appoint as temporary directors the five persons named in the petition.

(b) The commission shall appoint as temporary directors the five persons named in the first petition received by the commission under Subsection (a).

(c) If a temporary director fails to qualify for office or if a vacancy occurs in the office of temporary director, the vacancy shall be filled as provided by Section 49.105, Water Code.

(d) Temporary directors serve until the earlier of:

(1) the date directors are elected under Section 8269.023; or

(2) the date this chapter expires under Section 8269.003.

Sec. 8269.022. ORGANIZATIONAL MEETING OF TEMPORARY DIRECTORS. As soon as practicable after all the temporary directors have qualified under Section 49.055, Water Code, the directors shall meet at a location in the district agreeable to a majority of the directors. If a location cannot be agreed upon, the meeting shall be at the Hays County Courthouse. At the meeting, the temporary directors shall elect officers from among the temporary directors and conduct any other district business.

Sec. 8269.023. CONFIRMATION AND INITIAL DIRECTORS' ELECTION.

(a) The temporary directors shall hold an election to confirm the creation of the district and to elect five directors as provided by Section 49.102, Water Code.

(b) Section 41.001(a), Election Code, does not apply to a confirmation and initial directors' election held under this section.

Sec. 8269.024. INITIAL ELECTED DIRECTORS; TERMS. The directors elected under Section 8269.023 shall draw lots to determine which two serve until the first regularly scheduled election of directors under Section 8269.052 and which three shall serve until the second regularly scheduled election of directors.

Sec. 8269.025. DATE OF FIRST REGULARLY SCHEDULED ELECTION OF DIRECTORS. The board by order may postpone the first election under Section 8269.052 following the confirmation and initial directors' election held under Section 8269.023 if:

(1) the election would otherwise occur not later than the 60th day after the date on which the confirmation election is held; or

(2) the board determines that there is not sufficient time to comply with the requirements of law and to order the election.

Sec. 8269.026. EXPIRATION OF SUBCHAPTER. This subchapter expires September 1, 2015.

[Sections 8269.027-8269.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8269.051. DIRECTORS; TERMS. (a) The district is governed by a board of five directors.

(b) Directors serve staggered four-year terms.

Sec. 8269.052. ELECTION OF DIRECTORS. On the uniform election date in May of each even-numbered year, the appropriate number of directors shall be elected.

[Sections 8269.053-8269.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8269.101. GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 8269.102. MUNICIPAL UTILITY DISTRICT POWERS AND DUTIES. The district has the powers and duties provided by the general law of this state, including Chapters 49 and 54, Water Code, applicable to municipal utility districts created under Section 59, Article XVI, Texas Constitution.

Sec. 8269.103. ROAD PROJECTS. (a) To the extent authorized by Section 52, Article III, Texas Constitution, the district may construct, acquire, improve, maintain, or operate arterials or main feeder roads or improvements in aid of those roads.

(b) A road project must meet all applicable construction standards, zoning and subdivision requirements, and regulatory ordinances of the municipality or county in whose jurisdiction the district is located.

Sec. 8269.104. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCES OR RESOLUTIONS. Subject to the limitations of Section 54.016, Water Code, the district shall comply with all valid and applicable requirements of any ordinance or resolution adopted by a municipality in the corporate limits or extraterritorial jurisdiction of which the district is located, including an ordinance or resolution adopted before September 1, 2007, that consents to the creation of the district or to the inclusion of lands within the district.

[Sections 8269.105-8269.150 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8269.151. ELECTIONS REGARDING TAXES OR BONDS. (a) Except as provided by Section 8269.201(b), the district may issue, without an election, bonds and other obligations secured by revenue or contract payments from any source other than ad valorem taxation.

(b) The district must hold an election in the manner provided by Chapters 49 and 54, Water Code, to obtain voter approval before the district may impose an operation and maintenance tax or issue bonds payable from ad valorem taxes.

Sec. 8269.152. OPERATION AND MAINTENANCE TAX. (a) If authorized at an election held under Section 8269.151, the district may impose an operation and maintenance tax on taxable property in the district in accordance with Section 49.107, Water Code.

(b) The board shall determine the tax rate. The rate may not exceed the rate approved at the election.

[Sections 8269.153-8269.200 reserved for expansion]

SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

Sec. 8269.201. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. (a) The district may issue bonds or other obligations payable wholly or partly from ad valorem taxes, impact fees, revenue, grants, or other district money, or any combination of those sources, to pay for any authorized district purpose.

(b) The district may not issue bonds to finance projects authorized by Section 8269.103 unless the issuance is approved by a vote of a two-thirds majority of the voters of the district voting at an election called for that purpose.

(c) Bonds or other obligations issued or incurred to finance projects authorized by Section 8269.103 may not exceed one-fourth of the assessed value of the real property in the district.

Sec. 8269.202. TAXES FOR BONDS. At the time bonds payable wholly or partly from ad valorem taxes are issued:

(1) the board shall impose a continuing direct annual ad valorem tax, without limit as to rate or amount, for each year that all or part of the bonds are outstanding; and

(2) the district annually shall impose an ad valorem tax on all taxable property in the district in an amount sufficient to:

(A) pay the interest on the bonds as the interest becomes due;

(B) create a sinking fund for the payment of the principal of the bonds when due or the redemption price at any earlier required redemption date; and

(C) pay the expenses of imposing the taxes.

SECTION 2. The True Ranch Municipal Utility District No. 1 includes all the territory contained in the following area:

BEING ALL THAT CERTAIN TRACT OR PARCEL OF LAND CONTAINING 465.71 ACRES, MORE OR LESS, OF LAND AREA IN THE JOHN INGRAIM SURVEY, ABSTRACT NO. 256, HAYS COUNTY, TEXAS, BEING A PORTION OF THAT TRACT DESCRIBED AS 1279.69 ACRES IN A DEED FROM LESLIE TRUE VESPER ET AL TO LESLIE TRUE VESPER DATED AUGUST 10, 1992 AND RECORDED IN VOLUME 948, PAGE 789 OF THE HAYS COUNTY OFFICIAL PUBLIC RECORDS, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a ½" iron rod found in the southwest line of R.M. Highway No. 2325 and that tract described as an 80' R.O.W. in a deed from Cecil H. Hale, et al to the State of Texas dated August 29, 1956 and recorded in Volume 169, Page 304 of the Hays County Deed Records for the most northerly northwest corner of the panhandle portion of this description and the Vesper 1279.69 acre tract and east corner of that tract described as 592.30 acres in a deed from Leslie True Vesper et al to Ameritrust Texas, N.A., Trustee dated August 10, 1992 and recorded in Volume 949, Page 572 of the Hays County Official Public Records, from which a TXDOT concrete monument found bears N 69°45'42" W 162.75 feet;

THENCE leaving the Ameritrust Texas 592.30 acre tract and the PLACE OF BEGINNING as shown on that plat numbered 24587-06-3-d dated May 30, 2006 prepared for Leslie Vesper by Byrn & Associates, Inc., of San Marcos, Texas with the common northeast line of the Vesper 1279.69 acre tract and southwest line of R.M. Highway No. 2325 and the State of Texas 80' R.O.W. tract S 69°48'34" E 599.94 feet to a ½" iron rod set for the northwest corner of that tract described as "Tract 1-1.00 acres" in a deed from Thomas W. Slaughter et ux to Randy C. Brown et ux dated February 12, 1996 and recorded in Volume 1206, Page 780 of the Hays County Official Public Records, from which A TXDOT concrete monument found bears S 69°47'57" E 120.11 feet;

THENCE leaving R.M. Highway No. 2325 and the State of Texas 80' R.O.W. tract with the common east line of the Vesper 1279.69 acre tract and west and south lines of the Brown 1.00 acre Tract 1 the following two courses:

1. S 20°06'33" W 226.56 feet to a 2.5" pipe fence corner post found for corner, and

S 69°41'58" E 234.42 feet to a 2" pipe fence corner post found in the west line of that tract described as "Tract 2-5.347 acres" in the previously mentioned deed to Randy C. Brown et ux for the southeast corner of the Brown 1.00 acre Tract 1;

THENCE leaving the Brown 1.00 acre Tract 1 and continuing with the common east line of the Vesper 1279.69 acre tract and west line of the Brown 5.347 acre Tract 2, as fenced and used, the following three courses:

S 00°10'12" E 410.74 feet to a ½" iron rod set at the approximate centerline of an underground pipeline for angle point,

S 00°04'22" E 196.11 feet to a 2.5" pipe fence post found for angle point, and

S 00°24'09" E 15.83 feet to an iron rod found with an aluminum cap stamped "Pro-Tech Eng" at fence corner for the southwest corner of the Brown 5.347 acre Tract 2 and northwest corner of the remaining portion of that tract described as 187.78 acres in a deed from Henry Polvado & Lillie Polvado to Wesley Springs dated May 6, 1983 and recorded in Volume 393, Page 570 of the Hays County Deed Records (the Brown 5.347 acre Tract 2 being a portion of the Springs 187.78 acre tract);

THENCE leaving the Brown 5.347 acre Tract 2 and continuing with the east line of the Vesper 1279.69 acre tract and west line of the Springs 187.78 acre tract, as fenced and used, the following three courses:

S 00°00'57" E 1012.24 feet to a 2.5" pipe fence post found for angle point,

S 00°06'57" W 908.05 feet to a 4" pipe fence corner post found for angle point, and

S 00°03'12" E 354.80 feet to a 4" pipe fence corner post found for the southwest corner of the springs 187.78 acre tract and northwest corner of that tract described as 126.97 acres in a deed from Stanual W. Farris to the Stanual W. Farris Living Trust dated March 10, 2005 and recorded in Volume 2646, Page 385 of the Hays County Official Public Records;

THENCE leaving the Springs 187.78 acre tract and continuing with the common east line of the Vesper 1279.69 acre tract and west line of Farris Living Trust 126.97 acre tract, as fenced and used, the following three courses:

S 00°12'25" W 952.36 feet to a 4" pipe fence post found for angle point,

S 00°09'57"W 1087.12 feet to a 4" cedar post found for angle point, and

S 00°22'11" W 1072.11 feet to a ½" iron rod found at fence corner for the southwest corner of the Farris Living Trust 126.97 acre tract and northwest corner of that tract described as 32.03 acres in a deed from Phil Harris to Shannon Harris dated April 8, 1998 and recorded in Volume 1463, Page 335 of the Hays County Official Public Records;

THENCE leaving the Farris Living Trust 126.97 acre tract and continuing with the common east line of the Vesper 1279.69 acre tract and west line of the Shannon Harris 32.03 acre tract, as fenced and used, S 00°44'10"W 120.44 feet to a 4" cedar fence corner post found for the southwest corner of the Shannon Harris 32.03 acre

tract and northwest corner of that tract described as 28.92 acres in a deed from A.J. Farris et ux to Philip D. Farris dated July 18, 1991 and recorded in Volume 882, page 620 of the Hays County Official Public Records;

THENCE leaving the Shannon Harris 32.03 acre tract and continuing with the common east line of the Vesper 1279.69 acre tract and west line of the Philip D. Farris 28.92 acre tract, as fenced and used, S 00°24'02" W 279.19 feet to a ½" iron rod found at fence corner for the southeast corner of this description and northeast corner of that tract described as 52.30 acres in a deed from Leslie True Vesper to Paul R. Eastup et ux dated June 5, 1996 and recorded in Volume 1240, Page 309 of the Hays County Official Public Records (the Eastup 52.30 acre tract being a portion of the Vesper 1279.69 acre tract);

THENCE leaving the Phillip D. Farris 28.92 acre tract and entering the Vesper 1279.69 acre tract with the north line of the Eastup 52.30 acre tract, N 87°10'57" W 1356.38 feet to a ½" iron rod found in fence for the northwest corner of the Eastup 52.03 acre tract and northeast corner of that tract described as 209.16 acres in a deed from Leslie True Vesper to James Nicholas Edwards and Lynn S. Edwards dated July 6, 2005 and recorded in Volume 2719, Page 740 of the Hays County Official Public Record (the Edwards 209.16 acre tract being a portion of the Vesper 1279.69 acre tract);

THENCE leaving the Eastup 52.30 acre tract with the north line of the Edwards 209.16 acre tract, as fenced and used, the following five courses:

N 87°19'31" W 665.61 feet to a 4" pipe fence post found for angle point,

N 86°58'45" W 535.67 feet to a 3" cedar fence post found for angle point,

N 87°09'05" W 302.22 feet to a 3" cedar fence post found for angle point,

N 87°26'23" W 724.92 feet to a 4" cedar fence post found for angle point, and

N 86°46'01" W 426.90 feet to a ½" iron rod found with a plastic cap stamped "Byrn Survey" in the east line of that tract described as 504.13 acres in a deed from Leslie True Vesper to James L. Pierce and David L. Pierce dated February 8, 1999 and recorded in Volume 1500, Page 452 of the Hays County Official Public Records (the Pierce 504.13 acre tract being a portion of the Vesper 1279.69 acre tract);

THENCE leaving the Edwards 209.16 acre tract with the east line of the Pierce 504.13 acre tract the following two courses:

N 08°19'22" E 124.79 feet to a ½" iron rod found with a plastic cap stamped "Byrn Survey" for corner, and

N 87°41'56" W 751.30 feet to a ½" iron rod found with a plastic cap stamped "Byrn Survey" for the southwest corner of this description, an interior corner in the east line of the Pierce 504.13 acre tract, and the south corner of that tract described as 10.59 acres in a deed from Leslie True Vesper to James L. Pierce and David L. Pierce dated June 15, 2001 and recorded in Volume 1872, Page 802 of the Hays County Official Public Records (the Pierce 10.59 acre tract being a portion of the Vesper 1279.69 acre tract);

THENCE leaving the Pierce 504.13 acre tract with the east line of Pierce 10.59 acre tract the following two courses:

N 05°37'42" E (being the bearing basis for description) 734.58 feet to a ½" iron rod found with a plastic cap stamped "Byrn Survey" for angle point, and

N 16°12'16" E 1026.26 feet to a 16" cedar tree stump found in fence in the east line of the previously mentioned Pierce 504.13 acre tract for the north corner of the Pierce 10.59 acre tract;

THENCE leaving the Pierce 10.59 acre tract and continuing with the east line of the Pierce 504.13 acre tract, as fenced and used, the following eight courses:

N 20°34'38" E 42.67 feet to a 16" cedar tree stump found for angle point,

N 15°43'09" E 241.85 feet to a 12" cedar tree stump found for angle point,

N 08°41'46" E 86.90 feet to a 14" cedar tree stump found for angle point,

N 07°33'58" E 244.38 feet to a 2.5" pipe fence post found for angle point,

N 24°14'46" E 623.77 feet to a 6" cedar fence post found for angle point,

N 24°15'46" E 420.45 feet to a 2.5" pipe fence post found for angle point,

N 12°52'45" E 194.02 feet to a 2.5" pipe fence post found for angle point, and

N 01°30'08" E 340.55 feet to a 4" pipe fence corner post found in the south line of the previously mentioned Ameritrust Texas 592.30 acre tract and north line of the Vesper 1279.69 acre tract for the northeast corner of the Pierce 504.13 acre tract and exterior west corner of this description;

THENCE leaving the Pierce 504.13 acre tract with the common north line of the Vesper 1279.69 acre tract, and south line of the Ameritrust Texas 592.30 acre tract, as fenced and used, the following six courses:

N 73°32'00" E 130.18 feet to a 4" pipe fence post found for angle point,

S 48°36'36" E 170.02 feet to a ½" iron rod found for angle point,

S 76°17'07" E 88.03 feet to a 4" pipe fence post found for angle point,

S 86°44'44" E 798.24 feet to a 4" pipe fence post found for angle point,

S 86°55'19" E 913.16 feet to a 4" pipe fence post found for angle point, and

S 86°56'50" E 421.51 feet to a ½" iron rod found for the southeast corner of the Ameritrust Texas 592.30 acre tract and southwest corner of the panhandle portion of this description and the Vesper 1279.69 acre tract;

THENCE leaving the fence with the common west line of the panhandle portion of the Vesper 1279.69 acre tract and east line of the Ameritrust Texas 592.30 acre tract the following two courses:

N 00°00'32" E 1999.62 feet to a ½" iron rod found for angle point, and

N 32°23'54" E 1152.96 feet to the PLACE OF BEGINNING.

THERE are contained within these metes and bounds 465.71 acres, more or less, as prepared from public records and surveys made on the ground in 1999, 2001, 2005 and on May 30, 2006 by Byrn & Associates, Inc., of San Marcos, Texas. All ½" iron rods set are capped with a plastic cap stamped "Byrn Survey".

SECTION 3. (a) The legal notice of the intention to introduce the provisions of this Act relating to the creation of the True Ranch Municipal Utility District No. 1, setting forth the general substance of those provisions, has been published as provided by law, and the notice and a copy of those provisions have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor, one of the required recipients, has submitted the notice and provisions of this Act relating to the creation of the True Ranch Municipal Utility District No. 1 to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to the provisions of this Act relating to the creation of the True Ranch Municipal Utility District No. 1 with the governor, the lieutenant governor, and the speaker of the house of representatives within the required time.

(d) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.

The amendment to **HB 4** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 6 except as follows:

Absent-excused: Gallegos.

Senator Shapleigh offered the following amendment to the bill:

Floor Amendment No. 7

Amend **HB 4** (Senate committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill appropriately:

SECTION __. Sections 16.315 and 16.319, Water Code, are amended to read as follows:

Sec. 16.315. POLITICAL SUBDIVISIONS; COMPLIANCE WITH FEDERAL REQUIREMENTS. All political subdivisions are hereby authorized to take all necessary and reasonable actions that are not less stringent than ~~[to comply with]~~ the requirements and criteria of the National Flood Insurance Program, including but not limited to:

(1) making appropriate land use adjustments to constrict the development of land which is exposed to flood damage and minimize damage caused by flood losses;

(2) guiding the development of proposed future construction, where practicable, away from a location which is threatened by flood hazards;

(3) assisting in minimizing damage caused by floods;

(4) authorizing and engaging in continuing studies of flood hazards in order to facilitate a constant reappraisal of the flood insurance program and its effect on land use requirements;

(5) engaging in floodplain management, ~~[and]~~ adopting and enforcing permanent land use and control measures that are not less stringent than those ~~[consistent with the criteria]~~ established under the National Flood Insurance Act, and providing for the imposition of penalties on landowners who violate this subchapter or rules adopted or orders issued under this subchapter;

(6) declaring property, when such is the case, to be in violation of local laws, regulations, or ordinances which are intended to discourage or otherwise restrict land development or occupancy in flood-prone areas and notifying the director, or whomever the director designates, of such property;

(7) consulting with, giving information to, and entering into agreements with the Federal Emergency Management Agency for the purpose of:

(A) identifying and publishing information with respect to all flood areas, including coastal areas; and

(B) establishing flood-risk zones in all such areas and making estimates with respect to the rates of probable flood-caused loss for the various flood-risk zones for each of these areas;

(8) cooperating with the director's studies and investigations with respect to the adequacy of local measures in flood-prone areas as to land management and use, flood control, flood zoning, and flood damage prevention;

(9) taking steps, using regional, watershed, and multi-objective approaches, to improve the long-range management and use of flood-prone areas;

(10) purchasing, leasing, and receiving property from the director when such property is owned by the federal government and lies within the boundaries of the political subdivision pursuant to agreements with the Federal Emergency Management Agency or other appropriate legal representative of the United States Government;

(11) requesting aid pursuant to the entire authorization from the commission;

(12) satisfying criteria adopted and promulgated by the commission pursuant to the National Flood Insurance Program;

(13) adopting permanent land use and control measures with enforcement provisions that are not less stringent than [~~which are consistent with~~] the criteria for land management and use adopted by the director;

(14) adopting more comprehensive floodplain management rules that the political subdivision determines are necessary for planning and appropriate to protect public health and safety;

(15) participating in floodplain management and mitigation initiatives such as the National Flood Insurance Program's Community Rating System, Project Impact, or other initiatives developed by federal, state, or local government; and

(16) collecting reasonable fees to cover the cost of administering a local floodplain management program.

Sec. 16.319. QUALIFICATION. Political subdivisions wishing to qualify under the National Flood Insurance Program shall have the authority to do so by complying with the directions of the Federal Emergency Management Agency and by:

(1) evidencing to the director a positive interest in securing flood insurance coverage under the National Flood Insurance Program; and

(2) giving to the director satisfactory assurance that measures will have been adopted for the political subdivision that [~~which measures~~] will be not less stringent than [~~consistent with~~] the comprehensive criteria for land management and use developed by the Federal Emergency Management Agency.

The amendment to **HB 4** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 7 except as follows:

Absent-excused: Gallegos.

Senator Hinojosa offered the following amendment to the bill:

Floor Amendment No. 8

Amend **HB 4** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS accordingly:

SECTION _____. Subchapter D, Chapter 43, Local Government Code, is amended by adding Section 43.0741 to read as follows:

Sec. 43.0741. ABOLITION OF CERTAIN WATER CONTROL AND IMPROVEMENT, WATER IMPROVEMENT, AND IRRIGATION DISTRICTS THAT DELIVER RAW WATER TO MUNICIPALITIES. (a) This section applies only to:

(1) a water control and improvement, water improvement, or irrigation district:

(A) at least 60 percent of the territory of which is located in a single municipality as a result of annexation or incorporation;

(B) that diverts raw water from the Rio Grande and in a 12-month period delivers at least 80 percent of that raw water to the municipality for municipal use; and

(C) that has no outstanding bonded indebtedness; and

(2) a municipality that:

(A) receives raw water from a district described by Subdivision (1); and

(B) is located in a county that has a population of 400,000 or more, borders the United Mexican States, and has three or more cities that each have a population of more than 25,000.

(b) A municipality may adopt an ordinance abolishing a district by a vote of at least two-thirds of the membership of the municipality's governing body if the governing body determines that:

(1) at least 80 percent of the raw water diverted by the district in any 12-month period was for municipal use by the municipality;

(2) the district has no outstanding bonded indebtedness;

(3) the services furnished and functions performed by the district can be furnished and performed by the municipality; and

(4) the abolition of the district is in the best interests of the residents and property of the municipality and the district.

(c) The voters of the municipality may protest the enactment or enforcement of the ordinance by filing a petition with the secretary of the municipality. The petition must be signed by a number of qualified voters of the municipality that is equal to at least 10 percent of the number of voters who voted in the most recent election for municipal officers. The petition must be filed not later than the 30th day after the later of:

(1) the date the municipality finally approves the ordinance; or

(2) the date of publication of the ordinance, if the ordinance is published before it is scheduled to take effect.

(d) The secretary shall verify the signatures on a petition filed in accordance with Subsection (c) and present the verified petition to the governing body of the municipality at its next scheduled meeting.

(e) On receipt of a verified petition, the governing body of the municipality shall suspend the ordinance, and the municipality may not take an action under the ordinance.

(f) The governing body of the municipality shall reconsider the suspended ordinance at its next meeting. If the governing body does not repeal the ordinance, the governing body shall submit a proposition for or against the ordinance to the voters at the next municipal election or at a special election the governing body may order for that purpose. The ordinance does not take effect unless a majority of the voters voting in the election vote for the ordinance.

(g) The ordinance takes effect on:

(1) the expiration of the period for filing a petition under Subsection (c) if the voters of the municipality do not file a petition that meets the requirements of that subsection before the expiration of that period; or

(2) the approval of the ordinance at an election under Subsection (f).

(h) If the ordinance takes effect:

(1) the district is abolished;

(2) except as provided by Subdivision (3), the property and other assets of the district vest in the municipality;

(3) 50 percent of the cash reserves of the district shall be paid to the Rio Grande Regional Water Authority;

(4) the municipality becomes responsible for operating the district's facilities for the benefit of the district's existing customers and performing the services and functions that were performed by the district; and

(5) the municipality assumes all the debts, liabilities, and obligations of the district.

(i) A district that is abolished under this section shall provide its management and operational records to the municipality to ensure the orderly transfer of management and operational responsibility to the municipality.

The amendment to **HB 4** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 8 except as follows:

Absent-excused: Gallegos.

On motion of Senator Averitt and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 4 as amended was passed to third reading by a viva voce vote.

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

Absent-excused: Gallegos.

HOUSE BILL 4 ON THIRD READING

Senator Averitt moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 4** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent: Janek.

Absent-excused: Gallegos.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0. (Same as previous roll call)

**VOTE RECONSIDERED ON
HOUSE BILL 3315**

On motion of Senator Duncan and by unanimous consent, the vote by which **HB 3315** was finally passed was reconsidered:

HB 3315, Relating to the imposition and collection of certain insurance taxes, the adoption of certain reciprocal or multistate agreements relating to those taxes, and the adoption of rules relating to those taxes.

Question — Shall **HB 3315** be finally passed?

Senator Duncan offered the following amendment to the bill:

Floor Amendment No. 1 on Third Reading

Amend **HB 3315** on third reading by adding the following:

SECTION 1. Section 2007.002, Insurance Code, is amended to read as follows:

Sec. 2007.002. ASSESSMENT. The comptroller shall assess against all insurers to which this chapter applies a combined total of \$30 [~~\$15~~] million for each 12-month period.

SECTION 2. Section 2007.009, Insurance Code, is repealed.

SECTION 3. Section 2007.002, Insurance Code, as amended by this Act, does not apply to an assessment under Section 2007.004, Insurance Code, that is made by the comptroller on or before September 1, 2007.

The amendment to **HB 3315** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 on Third Reading except as follows:

Absent-excused: Gallegos.

On motion of Senator Duncan and by unanimous consent, the caption was again amended to conform to the body of the bill as amended.

HB 3315 as amended was again finally passed by the following vote: Yeas 29, Nays 0.

Absent: Janek.

Absent-excused: Gallegos.

HOUSE BILL 3776 ON SECOND READING

On motion of Senator Wentworth and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 3776** at this time on its second reading:

HB 3776, Relating to the authority of the Texas Water Development Board to approve the regional water plan for Region L and include the plan in the state water plan.

The bill was read second time.

Senator Averitt offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 3776** (Senate committee printing) by striking lines 18-47, page 1.

The amendment to **HB 3776** was read.

Senator Hegar moved to table Floor Amendment No. 1.

The motion to table was lost by the following vote: Yeas 9, Nays 18.

Yeas: Deuell, Eltife, Hegar, Lucio, Patrick, Uresti, Van de Putte, Wentworth, Zaffirini.

Nays: Averitt, Brimer, Duncan, Ellis, Estes, Fraser, Harris, Hinojosa, Jackson, Nelson, Nichols, Ogden, Seliger, Shapiro, Shapleigh, Watson, West, Williams.

Absent: Carona, Janek, Whitmire.

Absent-excused: Gallegos.

Question recurring on the adoption of Floor Amendment No. 1 to **HB 3776**, the amendment failed of adoption by the following vote: Yeas 13, Nays 15.

Yeas: Averitt, Brimer, Duncan, Ellis, Estes, Fraser, Hinojosa, Jackson, Nelson, Nichols, Seliger, Shapiro, Williams.

Nays: Deuell, Eltife, Harris, Hegar, Lucio, Ogden, Patrick, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Zaffirini.

Absent: Carona, Janek.

Absent-excused: Gallegos.

HB 3776 was passed to third reading by a viva voce vote.

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

Absent: Janek.

Absent-excused: Gallegos.

HOUSE BILL 3776 ON THIRD READING

Senator Wentworth moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3776** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent: Janek.

Absent-excused: Gallegos.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0. (Same as previous roll call)

HOUSE BILL 3618 ON SECOND READING

Senator Zaffirini moved to suspend the regular order of business to take up for consideration **HB 3618** at this time on its second reading:

HB 3618, Relating to certain health programs and grants and other related funds for school districts located in the border region.

The motion prevailed.

Senators Nelson, Patrick, and Shapiro asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time.

Senator Zaffirini offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 3618** (Senate committee printing) by striking all below the enacting clause and substituting the following:

SECTION 1. Chapter 168, Health and Safety Code, is amended by adding Sections 168.010 and 168.011 to read as follows:

Sec. 168.010. DIABETES INTERVENTION PILOT PROGRAM FOR SCHOOL DISTRICTS LOCATED ON THE TEXAS-MEXICO BORDER. (a) This section applies only to a school district located in a county that:

- (1) has a population of less than 600,000; and
- (2) is located on the international border.

(b) The department, in consultation with the Texas Education Agency, shall adopt criteria for the development of a pilot program that is designed to prevent and detect Type 2 diabetes for a school district described by Subsection (a) that has a student population identified by the commissioner as at risk for Type 2 diabetes and that takes into account the needs of the school district. A pilot program developed under this subsection must provide that:

(1) for each student in kindergarten through grade eight, each school in the school district must:

(A) measure the height, weight, and blood glucose levels of the student at the beginning of the school year and at another appropriate time during the implementation of the program; and

(B) track the measurements of the student and the progress of the student under the program through a data entry system provided over the Internet; and

- (2) the pilot program components consist of bilingual materials.

(c) A school district to which Subsection (a) applies may choose to participate in a pilot program under this section. In the first year a school district implements a program under this section, the district shall report the measurements of student height, weight, and blood glucose levels and the progress of a student under the program to the entity that administers the program. The administering entity, in cooperation with the department, shall evaluate and analyze the measurements to determine the effectiveness of the program in the first year.

(d) The department shall, from money appropriated for that purpose, distribute money to each school district that chooses to implement a pilot program under this section to cover the costs associated with the program.

Sec. 168.011. GRANT-WRITING COORDINATION PROGRAM. (a) The department shall employ one person as a grant writer to assist and coordinate with school districts located in the Texas-Mexico border region in obtaining grants and other funds for school-based health centers.

(b) A grant writer employed under this section may secure a grant or other funds on behalf of the state for a school-based health center.

(c) Funds obtained by the use of a grant writer employed under this section may be used only to:

(1) acquire, construct, or improve facilities for a school-based health center;

(2) purchase or lease equipment or materials for a school-based health center; or

(3) pay the salary or employment benefits of a person who is employed to work exclusively in a school-based health center.

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, 2007.

The amendment to **HB 3618** was read and was adopted by the following vote: Yeas 23, Nays 5.

Yeas: Averitt, Brimer, Deuell, Duncan, Ellis, Eltife, Fraser, Harris, Hegar, Hinojosa, Lucio, Nelson, Nichols, Ogden, Seliger, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Zaffirini.

Nays: Estes, Jackson, Patrick, Shapiro, Williams.

Absent: Carona, Janek.

Absent-excused: Gallegos.

On motion of Senator Zaffirini and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 3618 as amended was passed to third reading by a viva voce vote.

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

Nays: Estes, Jackson, Patrick, Shapiro, Williams.

Absent-excused: Gallegos.

HOUSE BILL 3618 ON THIRD READING

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3618** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 24, Nays 5.

Yeas: Averitt, Brimer, Carona, Deuell, Duncan, Ellis, Eltife, Fraser, Harris, Hegar, Hinojosa, Lucio, Nelson, Nichols, Ogden, Seliger, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Zaffirini.

Nays: Estes, Jackson, Patrick, Shapiro, Williams.

Absent: Janek.

Absent-excused: Gallegos.

The bill was read third time and was passed by the following vote: Yeas 24, Nays 5. (Same as previous roll call)

HOUSE BILL 2543 ON SECOND READING

On motion of Senator Ellis and by unanimous consent, Senate Rule 5.14(a) and the regular order of business were suspended to take up for consideration **HB 2543** at this time on its second reading:

HB 2543, Relating to the continuation and operation of the Texas Animal Health Commission; providing penalties.

The bill was read second time and was passed to third reading by a viva voce vote.

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

Absent: Janek.

Absent-excused: Gallegos.

HOUSE BILL 2543 ON THIRD READING

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2543** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent: Janek.

Absent-excused: Gallegos.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0. (Same as previous roll call)

HOUSE BILL 2833 ON SECOND READING

On motion of Senator Seliger and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2833** at this time on its second reading:

HB 2833, Relating to the licensing and regulation of certain private security services.

The bill was read second time.

Senator Hinojosa, on behalf of Senator Whitmire, offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 2833** (Senate committee printing) as follows:

(1) In SECTION 5 of the bill, in amended Subsection (a), Section 1702.113, Occupations Code (page 2, lines 19 and 20), strike "(a) An" and substitute "(a) Except as provided by Section 1702.1187, an [Am]".

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

SECTION _____. Subchapter F, Chapter 1702, Occupations Code, is amended by adding Section 1702.1187 to read as follows:

Sec. 1702.1187. RESTRICTED LICENSE, CERTIFICATE OF REGISTRATION, OR SECURITY OFFICER COMMISSION. The board by rule shall establish a procedure for granting a restricted license, certificate of registration, or security officer commission in circumstances the board considers appropriate to an applicant who has a disqualifying criminal conviction under Section 1702.113. The rules must address the duration, expiration, and renewal of a restricted license, certificate of registration, or security officer commission.

The amendment to **HB 2833** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent: Janek.

Absent-excused: Gallegos.

Senator Hegar offered the following amendment to the bill:

Floor Amendment No. 2

Amend **HB 2833** (Senate committee printing) by adding the following appropriately numbered SECTIONS and renumbering the subsequent SECTIONS accordingly:

SECTION __. Section 1702.322, Occupations Code, is amended to read as follows:

Sec. 1702.322. LAW ENFORCEMENT PERSONNEL. This chapter does not apply to:

(1) a person who is a chief of police, sheriff, constable, or other chief administrator of a law enforcement agency in this state or is appointed, elected, or employed by the chief administrator of a law enforcement agency ~~[has full time employment]~~ as a peace officer, as defined by Section 1701.001, in accordance with the licensing requirements adopted under rules of the Commission on Law Enforcement Officer Standards and Education and who receives compensation for private employment on an individual or an independent contractor basis as a patrolman, guard, extra job coordinator, or watchman if ~~[the officer]~~:

(A) the officer is employed by the private employer in an employee-employer relationship or [employed] on an individual contractual basis;

(B) the private employment does not require the officer to be [is not] in the employ of another peace officer;

(C) the officer is not a reserve peace officer; and

(D) the officer works for the law enforcement agency ~~[as a peace officer]~~ on the average of at least 32 hours a week, is compensated by the state or a political subdivision of the state at least at the minimum wage, and is entitled to all employee benefits offered to a peace officer by the state or political subdivision;

(2) a reserve peace officer while the reserve officer is performing guard, patrolman, or watchman duties for a county and is being compensated solely by that county;

(3) a peace officer acting in an official capacity in responding to a burglar alarm or detection device; or

(4) a person engaged in the business of electronic monitoring of an individual as a condition of that individual's community supervision, parole, mandatory supervision, or release on bail, if the person does not perform any other service that requires a license under this chapter.

The amendment to **HB 2833** was read and failed of adoption by the following vote: Yeas 12, Nays 14, Present-not voting 1.

Yeas: Averitt, Ellis, Hegar, Hinojosa, Lucio, Nichols, Ogden, Seliger, Shapleigh, Uresti, West, Whitmire.

Nays: Brimer, Duncan, Eltife, Estes, Fraser, Harris, Jackson, Nelson, Patrick, Van de Putte, Watson, Wentworth, Williams, Zaffirini.

Present-not voting: Deuell.

Absent: Carona, Janek, Shapiro.

Absent-excused: Gallegos.

Senator Hegar offered the following amendment to the bill:

Floor Amendment No. 3

Amend **HB 2833** (Senate committee printing) by adding the following appropriately numbered SECTIONS and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION __. Subsections (a) and (b), Section 1701.157, Occupations Code, are amended to read as follows:

(a) Not later than March 1 of each calendar year, the comptroller shall allocate money deposited during the preceding calendar year in the general revenue fund to the credit of the law enforcement officer standards and education fund account for expenses related to the continuing education of persons licensed under this chapter as follows:

(1) 20 percent of the money is allocated to ~~all~~ local law enforcement agencies in this state that meet the eligibility requirements described by Subsection (b) in equal shares; and

(2) 80 percent of the money is allocated to ~~all~~ local law enforcement agencies in this state that meet the eligibility requirements described by Subsection (b) in a share representing a fixed amount for each position in the agency, as of January 1 of the preceding calendar year, that is reserved to a person who:

(A) is licensed under this chapter;

(B) works as a peace officer on the average of at least 32 hours a week;

and

(C) is compensated by a political subdivision of this state at least at the minimum wage and is entitled to all employee benefits offered to a peace officer by the political subdivision.

(b) To be eligible for an allocation of money under Subsection (a), a [Not later than November 1 of each calendar year, each] local law enforcement agency must [shall] report to the comptroller not later than November 1 of the preceding calendar year:

(1) the number of agency positions described by Subsection (a)(2) reserved as of January 1 of the [that] year the report is due;

(2) the number of agency positions described by Subsection (a)(2) filled as of January 1 of the year the report is due;

(3) the percentage of the money received by the agency under Subsection (a) pursuant to the allocation made by the comptroller on or before March 1 of the year preceding the year in which the report is due that was used by the agency before the date of the allocation made by the comptroller under Subsection (a) on or before March 1 of the year the report is due;

(4) the number of training hours received during the 12-month or approximately 12-month period described by Subdivision (3) that were funded by money received by the agency pursuant to the allocation made by the comptroller on or before March 1 of the year preceding the year in which the report is due; and

(5) that the agency has complied with the requirements of this section regarding the use of any money received by the agency pursuant to the allocation made by the comptroller on or before March 1 of the year preceding the year in which the report is due.

SECTION __. The changes in law made by this Act to Section 1701.157, Occupations Code, apply to allocations made on or after January 1, 2009. Allocations made before that date are governed by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

The amendment to **HB 2833** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 3 except as follows:

Absent: Janek.

Absent-excused: Gallegos.

Senator Ogden offered the following amendment to the bill:

Floor Amendment No. 4

Amend **HB 2833** (Senate committee printing) by adding appropriately numbered SECTIONS to the bill to read as follows and renumbering remaining SECTIONS:

SECTION __. The heading to Chapter 2005, Government Code, is amended to read as follows:

CHAPTER 2005. MISCELLANEOUS PROVISIONS RELATING TO STATE LICENSES AND PERMITS [PERMIT PROCESSING]

SECTION __. Sections 2005.001 through 2005.007, Government Code, are designated as Subchapter A, Chapter 2005, Government Code, and a subchapter heading is added to read as follows:

SUBCHAPTER A. PERMIT PROCESSING

SECTION __. Chapter 2005, Government Code, is amended by adding Subchapter B to read as follows:

SUBCHAPTER B. DENIAL, SUSPENSION, OR REVOCATION FOR FALSE
STATEMENT, MISREPRESENTATION, OR REFUSAL TO PROVIDE
INFORMATION

Sec. 2005.051. DEFINITIONS. In this subchapter:

(1) "License" means a license, certificate, registration, permit, or other authorization:

(A) that is issued by a licensing authority;

(B) that is subject before expiration to suspension, revocation, forfeiture, or termination by the issuing licensing authority; and

(C) that a person must obtain to:

(i) practice or engage in a particular business, occupation, or profession; or

(ii) engage in any other regulated activity, including hunting, fishing, or other recreational activity for which a license or permit is required.

(2) "Licensing authority" means an agency of the executive, legislative, or judicial branch of state government that issues a license.

Sec. 2005.052. DENIAL, SUSPENSION, OR REVOCATION FOR FALSE STATEMENT, MISREPRESENTATION, OR REFUSAL TO PROVIDE INFORMATION. (a) A licensing authority may deny a person's application for a license or suspend or revoke a person's license if the licensing authority determines, after notice and hearing, that the person knowingly:

(1) made a false statement in connection with applying for or renewing the license;

(2) made a material misrepresentation to the licensing authority in connection with applying for or renewing the license;

(3) refused to provide information requested by the licensing authority; or

(4) failed to provide all of the person's criminal history information in response to the licensing authority's request for the information.

(b) A denial, suspension, or revocation by a licensing authority under this section is governed by the administrative procedures that apply to other disciplinary actions taken by the licensing authority.

Sec. 2005.053. CRIMINAL PROSECUTION. A person who knowingly makes a false statement in connection with applying for or renewing a license may be subject to criminal prosecution under Section 37.10, Penal Code.

SECTION __. Section 2005.001, Government Code, is amended to read as follows:

Sec. 2005.001. DEFINITIONS. In this subchapter [~~chapter~~]:

(1) "Permit" means an authorization by a license, certificate, registration, or other form that is required by law or state agency rules to engage in a particular business.

(2) "State agency" means a department, board, bureau, commission, division, office, council, or other agency of the state.

SECTION __. Section 2005.002, Government Code, is amended to read as follows:

Sec. 2005.002. EXCEPTIONS. This subchapter [~~chapter~~] does not apply to a permit:

(1) for which an agency's median time during the preceding calendar year for processing a permit application from receipt of the initial application to the final permit decision did not exceed seven days;

(2) issued in connection with any form of gaming or gambling; or

(3) issued under the Alcoholic Beverage Code.

SECTION __. Section 2005.005, Government Code, is amended to read as follows:

Sec. 2005.005. DUTY OF HEAD OF AGENCY. The head of each state agency shall ensure that the agency complies with this subchapter [~~chapter~~].

SECTION __. Subsection (a), Section 2005.006, Government Code, is amended to read as follows:

(a) A state agency subject to this subchapter [~~chapter~~] shall establish by rule a complaint procedure through which a permit applicant can:

(1) complain directly to the chief administrator of the agency if the agency exceeds the established period for processing permits; and

(2) request a timely resolution of any dispute arising from the delay.

SECTION __. Subsection (b), Section 2005.007, Government Code, is amended to read as follows:

(b) The report must include:

(1) a statement of the periods the agency has adopted under this subchapter [~~chapter~~] for processing each type of permit it issues, specifying any changes the agency made since the last report;

(2) a statement of the minimum, maximum, and median times for processing each type of permit during the period since the last report from the date the agency receives the initial permit application to the final permit decision;

(3) a description of the complaint procedure required by Section 2005.006;

(4) a summary of the number and disposition of complaints received by the agency under Section 2005.006 since the last report; and

(5) a description of specific actions taken by the agency since the last report to simplify and improve its permit application, processing, and paperwork requirements.

SECTION 9. Subchapter B, Chapter 2005, Government Code, as added by this Act, applies only to a statement, misrepresentation, or refusal made, in connection with applying for or renewing a license, on or after the effective date of this Act.

The amendment to **HB 2833** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 4 except as follows:

Absent: Janek.

Absent-excused: Gallegos.

Senator Van de Putte offered the following amendment to the bill:

Floor Amendment No. 5

Amend **HB 2833** (Senate committee printing) by adding the following appropriately numbered SECTIONS and renumber subsequent SECTIONS of the bill accordingly:

SECTION __. Article 56.541(e), Code of Criminal Procedure, is amended to read as follows:

(e) The attorney general may use money appropriated from the compensation to victims of crime fund for grants or contracts supporting victim-related services or assistance, including support for private Texas nonprofit corporations that provide victim-related civil legal services directly to victims, immediate family members of victims, or claimants and for the contract described by Article 56.16. A grant supporting victim-related services or assistance is governed by Chapter 783, Government Code.

SECTION __. Subchapter A, Chapter 56, Code of Criminal Procedure, is amended by adding Article 56.16 to read as follows:

Art. 56.16. VICTIM NOTIFICATION SYSTEM. (a) The attorney general shall operate, through a service contract with a third party, a statewide automated victim notification system. The attorney general shall operate the system in a manner that allows counties of this state and state agencies providing services to victims, guardians of victims, or close relatives of deceased victims to access the system without entering into any contract with the third party with which the attorney general has a service contract.

(b) The system operated under Subsection (a) must provide information to counties and state agencies described by Subsection (a) regarding:

(1) court proceedings relating to a defendant in a victim's case; and

(2) the release, transfer, or escape of a defendant convicted in a victim's

case.

(c) This article does not create a cause of action against the state or a state agency, official, or employee.

SECTION __. As soon as practicable after the effective date of this Act and in accordance with the terms of the contract, the office of the attorney general shall amend any existing contract with a third party for the provision of a statewide automated victim notification system to comply with Article 56.16, Code of Criminal Procedure, as added by this Act.

The amendment to **HB 2833** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 5 except as follows:

Absent: Janek.

Absent-excused: Gallegos.

VOTE RECONSIDERED ON FLOOR AMENDMENT NO. 1

On motion of Senator Duncan and by unanimous consent, the vote by which Floor Amendment No. 1 was adopted was reconsidered.

Question — Shall Floor Amendment No. 1 to **HB 2833** be adopted?

Senator Hinojosa, on behalf of Senator Whitmire, withdrew Floor Amendment No. 1.

Senator Williams offered the following amendment to the bill:

Floor Amendment No. 6

Amend **HB 2833** as follows:

SECTION 1. Subsection (a), Section 521.426, Transportation Code, is amended to read as follows:

(a) Except as provided by Subsection (c), a veteran of service in the armed forces of the United States is exempt from the payment of fees under this chapter for the issuance of a driver's license or personal identification certificate if the veteran:

- (1) was honorably discharged;
- (2) has a service-related disability of at least 60 percent; and
- (3) receives compensation from the United States because of the disability.

SECTION 2. This Act applies only to a personal identification certificate issued by the Department of Public Safety of the State of Texas on or after the effective date of this Act. A personal identification certificate issued before the effective date of this Act is covered by the law in effect on the date the certificate was issued, and the former law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2007.

The amendment to **HB 2833** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 6 except as follows:

Absent: Janek.

Absent-excused: Gallegos.

On motion of Senator Seliger and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 2833 as amended was passed to third reading by a viva voce vote.

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

Absent: Janek.

Absent-excused: Gallegos.

HOUSE BILL 2833 ON THIRD READING

Senator Seliger moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2833** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent: Janek.

Absent-excused: Gallegos.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0. (Same as previous roll call)

**VOTE RECONSIDERED ON
HOUSE BILL 828**

On motion of Senator Shapiro and by unanimous consent, the vote by which **HB 828** was finally passed was reconsidered:

HB 828, Relating to the amount of the guaranteed yield under the Foundation School Program.

Question — Shall **HB 828** be finally passed?

Senator Shapiro offered the following amendment to the bill:

Floor Amendment No. 1 on Third Reading

Amend **HB 828** on third reading by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS of the bill accordingly:

SECTION __. Section 42.2516, Education Code, is amended by amending Subsection (b) and adding Subsection (b-2) to read as follows:

(b) Subject to Subsections (b-2), (g), and (h), but notwithstanding any other provision of this title, a school district is entitled to state revenue necessary to provide the district with the sum of:

(1) the amount of state revenue necessary to maintain state and local revenue per student in weighted average daily attendance in the amount equal to the greater of:

(A) the amount of state and local revenue per student in weighted average daily attendance for the maintenance and operations of the district available to the district for the 2005-2006 school year;

(B) the amount of state and local revenue per student in weighted average daily attendance for the maintenance and operations of the district to which the district would have been entitled for the 2006-2007 school year under this chapter, as it existed on January 1, 2006, or, if the district would have been subject to Chapter 41, as that chapter existed on January 1, 2006, the amount to which the district would have been entitled under that chapter, based on the funding elements in effect for the 2005-2006 school year, if the district imposed a maintenance and operations tax at the rate adopted by the district for the 2005 tax year; or

(C) the amount of state and local revenue per student in weighted average daily attendance for the maintenance and operations of the district to which the district would have been entitled for the 2006-2007 school year under this chapter, as it existed on January 1, 2006, or, if the district would have been subject to Chapter 41, as that chapter existed on January 1, 2006, the amount to which the district would have been entitled under that chapter, based on the funding elements in effect for the 2005-2006 school year, if the district imposed a maintenance and operations tax at the rate equal to the rate described by Section 26.08(i) or (k)(1), Tax Code, as applicable, for the 2006 tax year;

(2) an amount equal to the product of \$2,500 multiplied by the number of classroom teachers, full-time librarians, full-time counselors certified under Subchapter B, Chapter 21, and full-time school nurses employed by the district and entitled to a minimum salary under Section 21.402; and

(3) an amount equal to the product of \$275 multiplied by the number of students in average daily attendance in grades nine through 12 in the district.

(b-2) The amount determined for a school district under Subsection (b) is increased or reduced as follows:

(1) if for any school year the district is entitled to greater allotments under Section 42.155 and 42.2515 than the allotment to which the district was entitled under that section for the school year on which the district's entitlement under Subsection (b) is based, the district's entitlement under Subsection (b) is increased by an amount equal to the difference between the amount to which the district is entitled under Sections 42.155 and 42.2515 for that school year and the amount to which the district was entitled under that section for:

(A) the 2005-2006 school year, if the amount determined for the district under Subsection (b) is determined under Subsection (b)(1)(A); or

(B) the 2006-2007 school year, if the amount determined for the district under Subsection (b) is determined under Subsection (b)(1)(B) or (C); and

(2) if for any school year the district is not entitled to allotments under Section 42.155 and 42.2515 or is entitled to a lesser allotment under that section than the allotment to which the district was entitled under that section for the school year on which the district's entitlement under Subsection (b) is based, the district's entitlement under Subsection (b) is reduced by an amount equal to the difference between the amount to which the district was entitled under Sections 42.155 and 42.2515 for the 2005-2006 or 2006-2007 school year, as appropriate based on whether the district's entitlement under Subsection (b) is determined under Subsection (b)(1)(A), (B), or (C), and the amount to which the district is entitled under Sections 42.155 and 42.2515 for the current school year.

The amendment to **HB 828** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 on Third Reading except as follows:

Absent: Janek.

Absent-excused: Gallegos.

Senator Shapiro offered the following amendment to the bill:

Floor Amendment No. 2 on Third Reading

Amend **HB 828** on third reading by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS of the bill accordingly:

(f-1) For a school district that, for the 2007 tax year or a subsequent tax year, adopts an exemption under Section 11.13(n), Tax Code, that was not in effect for the 2006 tax year or adopts an exemption under Section 11.13(n), Tax Code, at a greater percentage than the percentage in effect for the district for the 2006 tax year, the commissioner shall adjust the amount of the district's local revenue derived from maintenance and operations tax collections, as calculated for purposes of determining the amount of state revenue to which a school district is entitled under this section. The commissioner shall calculate the adjusted local revenue as the amount of maintenance and operations taxes the district would have levied had the district not

adopted, as applicable, an exemption under Section 11.13(n), Tax Code, for the 2007 tax year or a subsequent tax year or increased the percentage of an exemption under Section 11.13(n), Tax Code, for the 2007 tax year or a subsequent tax year. A determination by the commissioner under this subsection is final and may not be appealed.

The amendment to **HB 828** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2 on Third Reading except as follows:

Absent: Janek.

Absent-excused: Gallegos.

On motion of Senator Shapiro and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 828 as amended was again finally passed by the following vote: Yeas 29, Nays 0.

Absent: Janek.

Absent-excused: Gallegos.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1044

Senator Ellis submitted the following Conference Committee Report:

Austin, Texas

May 21, 2007

Honorable David Dewhurst

President of the Senate

Honorable Tom Craddick

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 1044** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

ELLIS
LUCIO
HARRIS
CARONA

DUTTON
BERMAN
BOHAC
BOLTON
HODGE

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 1044** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 763**

Senator Duncan submitted the following Conference Committee Report:

Austin, Texas
May 22, 2007

Honorable David Dewhurst
President of the Senate
Honorable Tom Craddick
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 **SB 763** 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
CARONA
HINOJOSA
WATSON

P. KING
HARTNETT
MACIAS
O'DAY
PHILLIPS

On the part of the Senate

On the part of the House

**A BILL TO BE ENTITLED
AN ACT**

relating to the affidavit required to prove expenses in a civil action.

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

SECTION 1. Subsections (d), (e), and (f), Section 18.001, Civil Practice and Remedies Code, are amended to read as follows:

(d) The party offering the affidavit in evidence or the party's attorney must ~~[file the affidavit with the clerk of the court and]~~ serve a copy of the affidavit on each other party to the case at least 30 days before the day on which evidence is first presented at the trial of the case.

(e) A party intending to controvert a claim reflected by the affidavit must ~~[file a counteraffidavit with the clerk of the court and]~~ serve a copy of the counteraffidavit on each other party or the party's attorney of record:

(1) not later than:

(A) 30 days after the day the party ~~[he]~~ receives a copy of the affidavit;

and

(B) at least 14 days before the day on which evidence is first presented at the trial of the case; or

(2) with leave of the court, at any time before the commencement of evidence at trial.

(f) The counteraffidavit must give reasonable notice of the basis on which the party servng ~~[filing]~~ it intends at trial to controvert the claim reflected by the initial affidavit and must be taken before a person authorized to administer oaths. The

counteraffidavit must be made by a person who is qualified, by knowledge, skill, experience, training, education, or other expertise, to testify in contravention of all or part of any of the matters contained in the initial affidavit.

SECTION 2. The change in law made by this Act applies only to a cause of action that is commenced on or after the effective date of this Act. A cause of action commenced before the effective date of this Act is governed by the law in effect immediately before the change in law made by this Act, and that law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2007.

The Conference Committee Report on **SB 763** was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 930

Senator Uresti submitted the following Conference Committee Report:

Austin, Texas
May 23, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
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 930** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

URESTI
HARRIS
HINOJOSA

WATSON
WENTWORTH

On the part of the Senate

CHAVEZ
CASTRO
CORTE

GARCIA
TAYLOR

On the part of the House

The Conference Committee Report on **HB 930** was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 1983

Senator Estes submitted the following Conference Committee Report:

Austin, Texas
May 23, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
 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 **SB 1983** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

ESTES
 AVERITT
 DUNCAN
 SELIGER

P. KING
 DARBY
 HUGHES
 TAYLOR

On the part of the Senate

On the part of the House

A BILL TO BE ENTITLED
 AN ACT

relating to the creation of the Upper Trinity Groundwater Conservation District; providing authority to issue bonds.

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

SECTION 1. Subtitle H, Title 6, Special District Local Laws Code, is amended by adding Chapter 8830 to read as follows:

CHAPTER 8830. UPPER TRINITY GROUNDWATER
 CONSERVATION DISTRICT
 SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8830.001. DEFINITIONS. In this chapter:

- (1) "Board" means the board of directors of the district.
- (2) "Director" means a member of the board.
- (3) "District" means the Upper Trinity Groundwater Conservation District.

Sec. 8830.002. NATURE OF DISTRICT; FINDINGS. (a) The district is a groundwater conservation district in Hood, Montague, Parker, and Wise Counties created under and essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

(b) The district is created to serve a public use and benefit.

(c) All of the land and other property included within the boundaries of the district will be benefited by the works and projects that are to be accomplished by the district under powers conferred by this chapter and by Chapter 36, Water Code.

(d) Any fees imposed by the district under this chapter are necessary to pay for the costs of accomplishing the purposes of the district, including the conservation and management of groundwater resources, as provided by this chapter and Section 59, Article XVI, Texas Constitution.

Sec. 8830.003. CONFIRMATION ELECTION REQUIRED. If the creation of the district is not confirmed at a confirmation election held under Section 8830.023 before September 1, 2009:

(1) the district is dissolved on September 1, 2009, except that:

(A) any debts incurred shall be paid;

(B) any assets that remain after the payment of debts shall be transferred in equal amounts to Hood, Montague, Parker, and Wise Counties; and

(C) the organization of the district shall be maintained until all debts are paid and remaining assets are transferred; and

(2) this chapter expires September 1, 2012.

Sec. 8830.004. INITIAL DISTRICT TERRITORY. The initial boundaries of the district are coextensive with the boundaries of Hood, Montague, Parker, and Wise Counties.

Sec. 8830.005. APPLICABILITY OF OTHER GROUNDWATER CONSERVATION DISTRICT LAW. Except as otherwise provided by this chapter, Chapter 36, Water Code, applies to the district.

Sec. 8830.006. CONSTRUCTION OF CHAPTER. This chapter shall be liberally construed to achieve the legislative intent and purposes of Chapter 36, Water Code. A power granted by Chapter 36, Water Code, or this chapter shall be broadly interpreted to achieve that intent and those purposes.

[Sections 8830.007-8830.020 reserved for expansion]

SUBCHAPTER A-1. TEMPORARY PROVISIONS

Sec. 8830.021. APPOINTMENT OF TEMPORARY DIRECTORS. (a) The district is initially governed by a board of eight temporary directors appointed as provided by Section 8830.051(a).

(b) Temporary directors shall be appointed not later than the 90th day after the effective date of the Act enacting this chapter. If after the 90th day fewer than eight temporary directors have been appointed, each unfilled position shall be considered a vacancy and filled in accordance with Subsection (c).

(c) If a vacancy occurs on the temporary board, the remaining temporary directors shall appoint a person to fill the vacancy in a manner that meets the representational requirements of this section.

(d) To be eligible to serve as a temporary director, a person must be a registered voter in the appointing county.

(e) Each temporary director must qualify to serve as a director in the manner provided by Section 36.055, Water Code.

(f) Temporary directors serve until the earlier of:

(1) the time the temporary directors become the initial permanent directors under Section 8830.024; or

(2) the date this chapter expires under Section 8830.003.

Sec. 8830.022. ORGANIZATIONAL MEETING OF TEMPORARY DIRECTORS. As soon as practicable after all the temporary directors have qualified under Section 36.055, Water Code, a majority of the temporary directors shall convene the organizational meeting of the district at a location in the district agreeable to a majority of the directors. If an agreement on location cannot be reached, the organizational meeting shall be at the Poolville Junior High School in Parker County.

Sec. 8830.023. CONFIRMATION ELECTION. (a) The temporary directors shall hold an election to confirm the creation of the district.

(b) Section 41.001(a), Election Code, does not apply to a confirmation election held as provided by this section.

(c) Except as provided by this section, a confirmation election must be conducted as provided by Sections 36.017(b), (c), and (e)-(g), Water Code, and by the Election Code.

(d) The ballot for the election must be printed to provide for voting for or against the proposition: "The creation of a nontaxing, locally controlled groundwater conservation district to be known as the Upper Trinity Groundwater Conservation District, in lieu and instead of anticipated action by the Texas Commission on Environmental Quality to otherwise establish a conservation and reclamation district within the same or a larger area."

(e) If a majority of the votes cast at the election are not in favor of the creation of the district, the temporary directors may order a subsequent confirmation election to be held in accordance with this section.

Sec. 8830.024. INITIAL PERMANENT DIRECTORS; INITIAL TERMS. If creation of the district is confirmed at an election held under Section 8830.023:

(1) the temporary directors become the initial permanent directors; and
(2) the two directors appointed from each county shall draw lots to determine which director serves a term expiring June 1 of the first odd-numbered year after the confirmation election and which director serves a term expiring June 1 of the next odd-numbered year.

Sec. 8830.025. EXPIRATION OF SUBCHAPTER. This subchapter expires September 1, 2012.

[Sections 8830.026-8830.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8830.051. GOVERNING BODY; TERMS. (a) The district is governed by a board of eight directors appointed as follows:

(1) two directors appointed by the Hood County Commissioners Court;
(2) two directors appointed by the Montague County Commissioners Court;
(3) two directors appointed by the Parker County Commissioners Court;
and

(4) two directors appointed by the Wise County Commissioners Court.

(b) Directors serve staggered four-year terms, with the term of one director from each of the four counties expiring on June 1 of each odd-numbered year.

(c) A director may serve multiple consecutive terms.

Sec. 8830.052. DIRECTOR ELIGIBILITY; QUALIFICATION. (a) To be eligible to serve as a director, a person must be a registered voter in the appointing county.

(b) Each director must qualify to serve in the manner provided by Section 36.055, Water Code.

Sec. 8830.053. VACANCIES. If a vacancy occurs on the board, the remaining directors shall appoint a person to fill the vacancy in a manner that meets the representational requirements of Section 8830.051.

Sec. 8830.054. COMPENSATION; REIMBURSEMENT. (a) Notwithstanding Sections 36.060(a) and (d), Water Code, a director may not receive compensation for performing the duties of director.

(b) A director is entitled to reimbursement of actual expenses reasonably and necessarily incurred while engaging in activities on behalf of the district.

[Sections 8830.055-8830.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8830.101. GROUNDWATER CONSERVATION DISTRICT POWERS AND DUTIES. Except as provided by this chapter, the district has the powers and duties provided by the general law of this state, including Chapter 36, Water Code, and Section 59, Article XVI, Texas Constitution, applicable to groundwater conservation districts.

Sec. 8830.102. CONTRACTS. The district may enter into a contract with any person, public or private, for any purpose authorized by law.

Sec. 8830.103. APPLICABILITY OF DISTRICT REGULATIONS. Groundwater regulation under this chapter applies to all persons except as exempted under Section 36.117, Water Code, or this chapter.

Sec. 8830.104. WELL SPACING RULES; EXEMPTIONS. (a) Except as provided by Subsection (b), the district shall exempt from the well spacing requirements adopted by the district any well that is completed on or before the effective date of those requirements.

(b) The district may provide by rule that a well may lose its exemption under this section if the well is modified in a manner that substantially increases the capacity of the well after the effective date of the well spacing requirements adopted by the district.

(c) Except as provided by this section and notwithstanding Section 8830.103, the district may require any well or class of wells exempt from permitting under Chapter 36, Water Code, to comply with the well spacing requirements adopted by the district. The district shall apply well spacing requirements uniformly to any well or class of wells based on the size or capacity of the well and without regard to the type of use of the groundwater produced by the well.

Sec. 8830.105. REGISTRATION AND REPORTING REQUIREMENTS FOR CERTAIN EXEMPT WELLS. The district may adopt rules that require the owner or operator of a well or class of wells exempt from permitting under Section 36.117, Water Code, to register the well with the district and, except for a well exempt from permitting under Subsection (b)(1) of that section, to report groundwater withdrawals from the well using reasonable and appropriate reporting methods and frequency.

Sec. 8830.106. ENFORCEMENT. (a) The district may enforce this chapter in the manner provided by Chapter 36, Water Code. In lieu of a remedy available to the district under Section 36.102, Water Code, or in addition to those remedies, the district may impose a fee in addition to a fee assessed under Section 8830.152 on a person producing groundwater in violation of a rule of the district, including the failure or refusal to comply with any order or rule of the district to reduce or cease groundwater usage. The purpose of a fee authorized under this subsection is to serve as a disincentive to producing groundwater except as authorized by the district.

(b) A fee imposed under Subsection (a) may not exceed an amount equal to 10 times the amount of a fee assessed under Section 8830.152.

Sec. 8830.107. NO EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain.

[Sections 8830.108-8830.150 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8830.151. TAXES PROHIBITED. The district may not impose a tax. Sections 36.020(a) and 36.201-36.204, Water Code, do not apply to the district.

Sec. 8830.152. DISTRICT REVENUES. (a) The district by rule, resolution, or order may establish, amend, pledge, encumber, expend the proceeds from, and assess to any person production fees based on the amount of groundwater authorized by permit to be withdrawn from a well or on the amount of water actually withdrawn, to enable the district to fulfill its purposes and regulatory functions as provided by this chapter. The district may use revenues generated by fees it assesses for any lawful purpose.

(b) Notwithstanding any provision of general law to the contrary, a fee authorized by Subsection (a) may not exceed:

(1) \$1 per acre-foot annually for groundwater used for agricultural purposes;

or

(2) 30 cents per thousand gallons annually for groundwater used for nonagricultural purposes.

(c) Notwithstanding any provision of general law or this chapter to the contrary, if any, the district may assess a production fee under this section for groundwater produced from a well or class of wells exempt from permitting under Section 36.117, Water Code. A production fee assessed by the district under this subsection must be based on the amount of groundwater actually withdrawn from the well and may not exceed the amount established by the district for permitted uses under Subsection (b)(2).

(d) Notwithstanding Section 36.1071(f), Water Code, the district by rule, resolution, or order before the adoption of its management plan may:

(1) establish, assess, and enforce the collection of production fees under this section; and

(2) establish and enforce metering and reporting requirements, except for a well exempt from permitting under Section 36.117(b)(1), Water Code.

(e) The district by rule may establish a temporary or permanent discounted fee rate for persons who prepay production fees to the district under this section on or before the dates established by district rule.

SECTION 2. (a) The legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor has submitted the notice and Act to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time.

(d) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.

SECTION 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, 2007.

The Conference Committee Report on **SB 1983** was filed with the Secretary of the Senate.

RESOLUTIONS OF RECOGNITION

The following resolutions were adopted by the Senate:

Memorial Resolution

HCR 233 (Watson), In memory of Teresa Terry of Pflugerville.

Congratulatory Resolutions

SR 1121 by Patrick, Recognizing Irma Hicks of Houston on the occasion of her 100th birthday.

SR 1122 by Gallegos, Recognizing John Pickelman on the occasion of his retirement from the North Harris Montgomery Community College District.

SR 1123 by Uresti, Recognizing Jose Luis Nanez and Noemi Ortiz Nanez on the occasion of their 50th wedding anniversary.

SR 1124 by Shapleigh, Congratulating Mark Dantonio for being named head football coach at Michigan State University.

SR 1125 by Gallegos, Recognizing Arthur A. Valdez on the occasion of his retirement from the Texas Alcoholic Beverage Commission.

SR 1126 by Lucio, Congratulating Jacob Thomas Cammack and LeAnn Gallegos Cammack on the birth of their son, Matthew Gregory Cammack.

SR 1127 by Lucio, Recognizing Raul Yzaguirre for his service as a civil rights advocate in behalf of the Hispanic American community.

SR 1128 by Williams, Recognizing Terry Nixon for his service to his nation during the Vietnam War.

HCR 232 (Seliger), Congratulating Ernesto Munoz of Midland on being named a 2007 Exemplary Migrant Student by the Migrant Student Graduation Enhancement Program of The University of Texas at Austin.

Official Designation Resolution

SR 1129 by Hinojosa, Recognizing the third Wednesday of September in 2007 and 2008 as Dr. Hector P. Garcia Day in Texas.

ADJOURNMENT

On motion of Senator Whitmire, the Senate at 2:08 a.m. adjourned, in memory of Oscar Saucedo, Jr., until 1:30 p.m. today, Thursday, May 24, 2007.

APPENDIX

SIGNED BY GOVERNOR

May 22, 2007

SB 168, SB 500, SB 947, SB 1107, SB 1306, SB 1430, SB 1463, SB 1673, SB 1836, SB 1977

SENT TO SECRETARY OF STATE

May 23, 2007

SJR 44, SJR 57, SJR 64

SENT TO GOVERNOR

May 23, 2007

SB 143, SB 204, SB 254, SB 255, SB 323, SB 324, SB 350, SB 361, SB 382, SB 387, SB 426, SB 450, SB 545, SB 660, SB 688, SB 723, SB 813, SB 914, SB 943, SB 976, SB 1097, SB 1153, SB 1263, SB 1424, SB 1434, SB 1461, SB 1533, SB 1670, SB 1735, SB 1781, SB 1828, SB 2016, SCR 85

SIGNED BY GOVERNOR

May 23, 2007

SB 276, SB 277, SB 404, SB 484, SB 573, SB 823, SB 1104, SB 1253, SB 1264, SB 1360, SB 1617, SB 1950, SB 1960, SB 1978, SB 1981, SB 1982, SB 2018, SCR 61, SCR 63, SCR 67

