

# SENATE JOURNAL

EIGHTIETH LEGISLATURE — REGULAR SESSION

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AUSTIN, TEXAS

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PROCEEDINGS

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**SIXTY-NINTH DAY**

(Sunday, May 27, 2007)

The Senate met at 1:38 p.m. pursuant to adjournment and was called to order by Dean Whitmire.

The roll was called and the following Senators were present: Averitt, Brimer, Carona, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Harris, Hegar, Hinojosa, Jackson, Janek, Lucio, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Absent-excused: Gallegos.

The Presiding Officer announced that a quorum of the Senate was present.

The Reverend John McMullen, First United Methodist Church, Austin, offered the invocation as follows:

Gracious and loving Lord, God of all nations and God of all people, we pray Your presence with this body as it gathers today and for the rest of this session. We ask for strength for it has been a long session and we are tired. We ask for patience because things have not always moved as quickly as we might have liked or in the direction that we might have hoped, and time grows short. As this session winds down, keep us mindful of our responsibility to all the people and to You and to each other. We are grateful for the good things that have been achieved, and we ask forgiveness if the good possible was not achieved. Make us always mindful that You are our God and we are Your people. We pray in Your holy name. Amen.

Senator Wentworth moved that the reading of the Journal of the proceedings of yesterday be dispensed with and the Journal be approved as printed.

The motion prevailed without objection.

## LEAVE OF ABSENCE

On motion of Senator Wentworth, Senator Gallegos was granted leave of absence for today on account of illness.

### GUESTS PRESENTED

Senator Lucio was recognized and introduced to the Senate University Interscholastic League Solo Contest winners from Donna High School in Donna: Coral Flores, Angelica Lara, and Sophia Guerra, accompanied by their director, Matt Garcia.

The Senate welcomed its guests.

### BILLS AND RESOLUTIONS SIGNED

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

**SB 74, SB 131, SB 141, SB 363, SB 410, SB 560, SB 617, SB 649, SB 662, SB 714, SB 766, SB 919, SB 924, SB 962, SB 1091, SB 1092, SB 1185, SB 1207, SB 1231, SB 1233, SB 1234, SB 1245, SB 1339, SB 1391, SB 1535, SB 1566, SB 1613, SB 1624, SB 1658, SB 1719** (signed subject to Sec. 49-a, Art. III, Texas Constitution), **SB 1724, SB 1729, SB 1788, SB 1912, SB 1942, SB 1972, SB 1984, SB 1993, SB 2020, SB 2031, SCR 58, SJR 65, HB 2** (signed subject to Sec. 49-a, Art. III, Texas Constitution), **HB 316, HB 317, HB 438, HB 448, HB 492, HB 544, HB 555, HB 638, HB 681, HB 724, HB 957, HB 967, HB 971, HB 1009, HB 1086, HB 1092, HB 1207, HB 1265, HB 1287, HB 1290, HB 1303, HB 1316, HB 1330, HB 1400, HB 1459, HB 1470, HB 1519, HB 1524, HB 1609, HB 1656, HB 1667, HB 1669, HB 1671, HB 1775, HB 1889, HB 1899, HB 1944, HB 1955, HB 2074, HB 2118, HB 2138, HB 2173, HB 2190, HB 2222, HB 2328, HB 2365, HB 2389, HB 2417, HB 2427, HB 2438, HB 2467, HB 2501, HB 2523, HB 2524, HB 2543, HB 2548, HB 2703, HB 2713, HB 2715, HB 2723, HB 2724, HB 2751, HB 2752, HB 2782, HB 2820, HB 2827, HB 2895, HB 2896, HB 2897, HB 2917, HB 2918, HB 2926, HB 2936, HB 2949, HB 3060, HB 3106, HB 3220, HB 3672, HB 3776, HB 3876, HB 3879, HB 3984, HB 3990, HB 4015, HB 4031, HB 4037, HB 4038, HB 4039, HB 4040, HB 4041, HB 4042, HB 4043, HB 4046, HB 4047, HB 4056, HB 4057, HB 4062, HB 4065, HB 4067, HB 4070, HB 4072, HB 4074, HB 4079, HB 4080, HB 4083, HB 4084, HB 4093, HB 4094, HB 4096, HB 4097, HB 4098, HB 4099, HB 4101, HB 4104, HB 4109, HB 4111, HB 4112, HB 4114, HB 4123, HCR 12, HCR 16, HCR 25, HCR 35, HCR 102, HCR 111, HCR 151, HCR 164, HCR 187, HCR 207, HCR 233, HCR 266, HCR 267, HJR 6, HJR 72, HJR 90, HB 53, HB 550, HB 589, HB 1038, HB 1044, HB 1250, HB 1460, HB 1633, HB 2004, HB 2106, HB 2210, HB 2261, HB 2510, HB 2564, HB 2734, HB 2944, HB 3232, HB 3552, HB 4045, HB 4069, HB 4110, HCR 96, HCR 260.**

(Senator Seliger in Chair)

### CONFERENCE COMMITTEE REPORT ON HOUSE BILL 3154 ADOPTED

Senator Deuell called from the President's table the Conference Committee Report on **HB 3154**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

On motion of Senator Deuell, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 1801 ADOPTED**

Senator Hegar called from the President's table the Conference Committee Report on **HB 1801**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

On motion of Senator Hegar, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 23 ADOPTED**

Senator Nelson called from the President's table the Conference Committee Report on **SB 23**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

On motion of Senator Nelson, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

**RECESS**

On motion of Senator Fraser, the Senate at 2:20 p.m. recessed until 3:00 p.m. today.

**AFTER RECESS**

The Senate met at 3:14 p.m. and was called to order by Senator Seliger.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 568 ADOPTED**

Senator Harris called from the President's table the Conference Committee Report on **HB 568**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

On motion of Senator Harris, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 1864 ADOPTED**

Senator Hinojosa called from the President's table the Conference Committee Report on **HB 1864**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

On motion of Senator Hinojosa, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 3438 ADOPTED**

Senator Lucio called from the President's table the Conference Committee Report on **HB 3438**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

On motion of Senator Lucio, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

**SENATE RESOLUTION 1182**

Senator Carona offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 80th Legislature, Regular Session, 2007, That Senate Rule 12.03 be suspended in part as provided by Senate Rule 12.08 to enable the conference committee appointed to resolve the differences on **HB 2093** (the issuance and enforcement of motor carrier overweight or oversize vehicle permits and motor carrier registrations; providing administrative penalties) to consider and take action on the following matter:

Senate Rules 12.03(3) and (4) are suspended to permit the conference committee to add the following:

SECTION 3. Section 622.953(b), Transportation Code, is amended to read as follows:

(b) The overall gross weight of a single motor vehicle used to transport seed cotton or equipment used to transport or process seed cotton may not be heavier than 64,000 [~~59,400~~] pounds.

Explanation: The change is necessary to add a provision to the bill related to weight limitations for certain vehicles transporting agricultural products and equipment.

**SR 1182** was read and was adopted without objection.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 2093 ADOPTED**

Senator Carona called from the President's table the Conference Committee Report on **HB 2093**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

On motion of Senator Carona, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 1521 ADOPTED**

Senator Hegar called from the President's table the Conference Committee Report on **HB 1521**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

On motion of Senator Hegar, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 406 ADOPTED**

Senator Wentworth called from the President's table the Conference Committee Report on **SB 406**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

On motion of Senator Wentworth, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 765 ADOPTED**

Senator Eltife called from the President's table the Conference Committee Report on **SB 765**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

On motion of Senator Eltife, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 1951 ADOPTED**

Senator Wentworth called from the President's table the Conference Committee Report on **SB 1951**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

On motion of Senator Wentworth, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 2094 ADOPTED**

Senator Carona called from the President's table the Conference Committee Report on **HB 2094**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

On motion of Senator Carona, the Conference Committee Report was adopted by the following vote: Yeas 29, Nays 1.

Nays: Patrick.

Absent-excused: Gallegos.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 1457 ADOPTED**

Senator Nichols called from the President's table the Conference Committee Report on **HB 1457**. The Conference Committee Report was filed with the Senate on Friday, May 25, 2007.

On motion of Senator Nichols, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 3385 ADOPTED**

Senator Janek called from the President's table the Conference Committee Report on **HB 3385**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

On motion of Senator Janek, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

**SENATE RESOLUTION 1186**

Senator Brimer offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 80th Legislature, Regular Session, 2007, That Senate Rule 12.03 be suspended in part as provided by Senate Rule 12.08, to enable the conference committee appointed to resolve the differences on **HB 3249** (the powers and duties of, and entities reviewed by, the Sunset Advisory Commission) to consider and take action on the following matters:

(1) Senate Rules 12.03(3) and (4) are suspended to permit the committee to add the following SECTIONS to the bill:

SECTION 2.06. TEXAS HISTORICAL COMMISSION. (a) Section 442.002(k), Government Code, is amended to read as follows:

(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, 2009 [~~2007~~]. In the review of the commission by the Sunset Advisory Commission, as required by this section, the sunset commission shall limit its review to the appropriateness of recommendations made to the 80th Legislature. In its report to the 81st legislature, the sunset commission may include any recommendations it considers appropriate.

(b) This section takes effect only if the 80th Legislature, Regular Session, 2007, does not enact other legislation that becomes law and that amends Section 442.002(k), Government Code, to extend the sunset date of the Texas Historical Commission. If the 80th Legislature, Regular Session, 2007, enacts legislation of that kind, this section has no effect.

SECTION 2.07. OFFICE OF RURAL COMMUNITY AFFAIRS. (a) Section 487.002, Government Code, is amended to read as follows:

Sec. 487.002. SUNSET PROVISION. The Office of Rural Community Affairs is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the office is abolished and this chapter expires September 1, 2009 [2007]. In the review of the office by the Sunset Advisory Commission, as required by this section, the sunset commission shall limit its review to the appropriateness of recommendations made to the 80th Legislature. In its report to the 81st legislature, the sunset commission may include any recommendations it considers appropriate.

(b) This section takes effect only if the 80th Legislature, Regular Session, 2007, does not enact other legislation that becomes law and that amends Section 487.002, Government Code, to extend the sunset date of the Office of Rural Community Affairs. If the 80th Legislature, Regular Session, 2007, enacts legislation of that kind, this section has no effect.

SECTION 2.08. OFFICE OF STATE-FEDERAL RELATIONS. (a) Section 751.003, Government Code, is amended to read as follows:

Sec. 751.003. SUNSET PROVISION. The Office of State-Federal Relations is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the office is abolished and this chapter expires September 1, 2009 [2007]. In the review of the office by the Sunset Advisory Commission, as required by this section, the sunset commission shall limit its review to the appropriateness of recommendations made to the 80th Legislature. In its report to the 81st legislature, the sunset commission may include any recommendations it considers appropriate.

(b) This section takes effect only if the 80th Legislature, Regular Session, 2007, does not enact other legislation that becomes law and that amends Section 751.003, Government Code, to extend the sunset date of the Texas Office of State Federal Relations. If the 80th Legislature, Regular Session, 2007, enacts legislation of that kind, this section has no effect.

Explanation: The changes are necessary to provide a two-year continuation of the sunset review date for the Historical Commission, Office of Rural Community Affairs, and the Office of State-Federal Relations if the legislature does not enact other legislation to extend the agencies' sunset dates.

(2) Senate Rules 12.03(3) and (4) are suspended to permit the committee to add the following SECTIONS to the bill:

SECTION 3.11. DEPARTMENT OF INFORMATION RESOURCES. Section 2054.005, Government Code, is amended to read as follows:

Sec. 2054.005. SUNSET PROVISION. The Department of Information Resources is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the department is abolished and this chapter expires September 1, 2011 [2009].

SECTION 3.12. ELECTRONIC GOVERNMENT PROGRAM MANAGEMENT OFFICE. Section 2055.003, Government Code, is amended to read as follows:

Sec. 2055.003. SUNSET PROVISION. The office is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the office is abolished September 1, 2011 [2009].

SECTION 3.13. TEXAS PUBLIC FINANCE AUTHORITY. Section 1232.072, Government Code, is amended to read as follows:

Sec. 1232.072. SUNSET PROVISION. The Texas Public Finance Authority is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the authority is abolished and this chapter expires September 1, 2011 [~~2009~~].

Explanation: The changes are necessary to move the agencies' dates from 2009 to 2011, to adjust the sunset review schedule.

(3) Senate Rules 12.03(3) and (4) are suspended to permit the committee to add the following SECTION to the bill:

SECTION 2.09. BOARD OF TAX PROFESSIONAL EXAMINERS. Section 1151.003, Occupations Code, is amended to read as follows:

Sec. 1151.003. APPLICATION OF SUNSET ACT. The Board of Tax Professional Examiners is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished and this chapter expires September 1, 2009 [~~2015~~].

Explanation: The change is necessary to move the agency's sunset date from 2015 to 2009.

**SR 1186** was read and was adopted without objection.

### **CONFERENCE COMMITTEE REPORT ON HOUSE BILL 3249 ADOPTED**

Senator Brimer called from the President's table the Conference Committee Report on **HB 3249**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

On motion of Senator Brimer, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

### **STATEMENT OF LEGISLATIVE INTENT**

Senator Brimer submitted the following statement of legislative intent for **HB 3249**:

When I was appointed Chairman of the Sunset Advisory Commission, I consulted with Lieutenant Governor Dewhurst and other members of the commission on the upcoming Sunset process and its policies and procedures. Together we implemented a strict policy that issues unrelated to the administration, management, goals, or employment practices of an agency were out of order and would not be included in sunset legislation or the final Sunset Commission Report. I also advised that if a commission member desired to pursue issues that were outside of the agencies scope and review, I would recommend that separate legislation be introduced and carried through the normal legislative process.

During the agency review process, subjects were brought before the Sunset Commission that recommended a complete re-structuring of the alcoholic beverage industry in Texas, not matters dealing with the administration and functions of the agency. The members of the Sunset Commission voted overwhelmingly to reject the

items brought forward that dealt with a complete industry re-structuring. I therefore followed commission policy, and chose not to include those subjects and items in the Sunset Commission Report.

BRIMER

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 10 ADOPTED**

Senator Nelson called from the President's table the Conference Committee Report on **SB 10**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

On motion of Senator Nelson, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 1113 ADOPTED**

Senator Uresti called from the President's table the Conference Committee Report on **HB 1113**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

On motion of Senator Uresti, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 1731 ADOPTED**

Senator Duncan called from the President's table the Conference Committee Report on **SB 1731**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

On motion of Senator Duncan, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 3609 ADOPTED**

Senator Ellis called from the President's table the Conference Committee Report on **HB 3609**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

On motion of Senator Ellis, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 2667 ADOPTED**

Senator Deuell called from the President's table the Conference Committee Report on **HB 2667**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

On motion of Senator Deuell, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 2072 ADOPTED**

Senator Zaffirini called from the President's table the Conference Committee Report on **HB 2072**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

On motion of Senator Zaffirini, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 3674 ADOPTED**

Senator Jackson called from the President's table the Conference Committee Report on **HB 3674**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

On motion of Senator Jackson, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 1846 ADOPTED**

Senator Duncan called from the President's table the Conference Committee Report on **SB 1846**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

On motion of Senator Duncan, the Conference Committee Report was adopted by the following vote: Yeas 29, Nays 1.

Nays: Lucio.

Absent-excused: Gallegos.

**REMARKS ORDERED PRINTED**

On motion of Senator Lucio and by unanimous consent, the exchange between Senators Duncan and Lucio regarding **SB 1846** was ordered reduced to writing and printed in the *Senate Journal* as follows:

**Senator Lucio:** I certainly appreciate how hard you worked on this issue, Senator. There are some concerns, obviously, and one of them for all Members would be to choose between, actually, retired and active teachers. I think we're using, obviously, active teachers, asking them to contribute so that the retired teachers can get this 13th check by increasing their contribution, correct?

**Senator Duncan:** Well that's part of what happens. The other part is the state's putting in about \$630 million to be able to make that happen.

**Senator Lucio:** But the 13th check is really not guaranteed, if I heard you correctly. It's only provided if the fund is actuarially sound, and I personally feel that the state should be, obviously, paying instead of the active teachers, but—

**Senator Duncan:** Well we are, Senator.

**Senator Lucio:** Though the check is not, the check is not really guaranteed.

**Senator Duncan:** Well let me respond to that—

**Senator Lucio:** OK.

**Senator Duncan:** Because the, I don't think that the state can ever guarantee a 13th month check, it depends on the actuarial soundness of the fund. But you'll know with the hard work that you and others and we all did last session in making changes to the system, as well as the fact that the market has performed so well and the fund has performed so well, and with returns in excess of 11 percent the smoothing, the actuarial smoothing is now starting to expire that has been accounting for the losses in the 2001 year. So what we've got is that we have a robust retirement system. The actuaries tell us that if we go to 6.58 at the state contribution level, that the fund will probably be actuarially sound, will be actuarially sound if we end it by, in August. If we increase the teachers, we may not have to increase the active members' contributions rate at all, and under this bill if we don't have to, we will not do that. So this gives us the option to do that in the event it's necessary to provide the 13th month check. You'll recall in our bill when it left the Senate we had that being assessed upon the employers as opposed to the teachers. We could not reach that agreement with the House; we felt like this was the best way to go. But I'll tell you the best, there are two things in here, Senator, that I think are very important. Number one is the State of Texas has put over six in this budget that we're going to adopt today, we have put over 630 billion, or million dollars, \$630 million into the budget to ensure that this, that our teacher retirement system is sound. We have committed in this bill to the state never being less in its contribution rate than the active teachers. Now that's significant because, as you know, over the years the State of Texas, that our contribution rate was at 6.0 and the teachers' rate was at 6.4. That's one of the reasons why we have found ourselves chasing actuarial soundness as we are today. But I feel very confident that this is a compromise between the House and the Senate that guarantees the 13th month check and is of little, would have little financial, very, an infinitesimal financial impact on our active teachers should we have to access more in a contribution rate from them.

**Senator Lucio:** The House is really pushing for a 6.7, we were pushing for a what, 6.4?

**Senator Duncan:** Well we put, you know, that and I think the Senate—

**Senator Lucio:** I say we, the negotiators of this piece of legislation and you're saying we're compromised at 6.55, right?

**Senator Duncan:** 6.58.

**Senator Lucio:** 6.58. The \$600 million plus, Senator, that's all GR money at, none of that is surplus money that we have available, right?

**Senator Duncan:** That's pure GR money, it was put in the base, a lot of it, about 400 and nearly 500 million of it was put in the base bill, and then we've added to the base bill in the Conference Committee Report—

**Senator Lucio:** But it, but—

**Senator Duncan:** Enough to get that up to 6.58.

**Senator Lucio:** But it really comes in from contributions as well. I mean part of the 13th check that will be made possible comes in from contributions of active teachers, correct?

**Senator Duncan:** Well, active teachers are, have been paying 6.4 percent of their salary—

**Senator Lucio:** Now that we'll give them—

**Senator Duncan:** For years.

**Senator Lucio:** 6.58.

**Senator Duncan:** And, and right now they're, we will not require them to pay 6.58 unless the fund does not have enough, is not sufficiently greater than actuarial soundness to supply the 13th month check. But in no event will this be in an excess of 6.58.

**Senator Lucio:** But I think the, it's an improvement, but I still hold, my position is that the state should just come up with the money necessary to give the retired teachers their raise or their 13th month check instead of using active teachers, that's my only concern on it.

**Senator Duncan:** Well, and I think that, you know, that's an option, Senator Lucio, and we looked at that option. But if we did that then I think that the part of the budget that would sacrifice would be that part of the budget. You know, there's over \$600 million in this budget for either a pay raise or a teacher incentive, so, you know, you start sacrificing in other areas of the budget when you do that. So I think that this really is a very appropriate compromise. You know, you remember our retired teachers had not had a 13th, or any sort of benefit enhancement since 2001. And, so I think this is an important step to accomplish that, and I think the other thing, with regard to the teacher assessments that could go up, we did a survey, our Committee did a survey during the interim and there was good support among active teachers to

enact a small increase in their contribution rate for actuarial soundness and for a 13th month check. So I think we've got good strong support for this. I think that you'll find that people will be very happy that we will pass this bill.

**Senator Lucio:** Well I think that some are agreeing to it. I guess I'm hearing from those that are not in agreement mostly. But I certainly, once again, appreciate your hard work, no one respects you more than I do for your work ethic, and I certainly want to congratulate you on that.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 3200 ADOPTED**

Senator Whitmire called from the President's table the Conference Committee Report on **HB 3200**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

On motion of Senator Whitmire, the Conference Committee Report was adopted by the following vote: Yeas 29, Nays 1.

Nays: Patrick.

Absent-excused: Gallegos.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 610 ADOPTED**

Senator Hegar called from the President's table the Conference Committee Report on **HB 610**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

On motion of Senator Hegar, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 3314 ADOPTED**

Senator Duncan called from the President's table the Conference Committee Report on **HB 3314**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

On motion of Senator Duncan, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 3315 ADOPTED**

Senator Duncan called from the President's table the Conference Committee Report on **HB 3315**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

On motion of Senator Duncan, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 3319 ADOPTED**

Senator Duncan called from the President's table the Conference Committee Report on **HB 3319**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

On motion of Senator Duncan, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 447 ADOPTED**

Senator Jackson called from the President's table the Conference Committee Report on **HB 447**. The Conference Committee Report was filed with the Senate on Friday, May 25, 2007.

On motion of Senator Jackson, the Conference Committee Report was adopted by the following vote: Yeas 29, Nays 1.

Nays: Patrick.

Absent-excused: Gallegos.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 109 ADOPTED**

Senator Averitt called from the President's table the Conference Committee Report on **HB 109**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

On motion of Senator Averitt, the Conference Committee Report was adopted by the following vote: Yeas 29, Nays 1.

Nays: Nelson.

Absent-excused: Gallegos.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 9 ADOPTED**

Senator Shapiro called from the President's table the Conference Committee Report on **SB 9**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

On motion of Senator Shapiro, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

**MESSAGE FROM THE HOUSE**

HOUSE CHAMBER

Austin, Texas

May 27, 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 ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

**HB 119** (143 Yeas, 0 Nays, 2 Present, not voting)

**HB 155** (140 Yeas, 0 Nays, 2 Present, not voting)

**HB 447** (148 Yeas, 0 Nays, 2 Present, not voting)

**HB 1522** (145 Yeas, 0 Nays, 2 Present, not voting)

**HB 2034** (142 Yeas, 2 Nays, 2 Present, not voting)

**HB 2207** (144 Yeas, 0 Nays, 2 Present, not voting)

**HB 2542** (147 Yeas, 0 Nays, 2 Present, not voting)

**HB 3066** (142 Yeas, 0 Nays, 2 Present, not voting)

**HB 4139** (144 Yeas, 0 Nays, 2 Present, not voting)

**SB 199** (145 Yeas, 0 Nays, 2 Present, not voting)

**SB 344** (143 Yeas, 0 Nays, 2 Present, not voting)

**SB 1154** (144 Yeas, 0 Nays, 3 Present, not voting)

Respectfully,

/s/Robert Haney, Chief Clerk  
House of Representatives

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 718 ADOPTED**

Senator Ogden called from the President's table the Conference Committee Report on **SB 718**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

On motion of Senator Ogden, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 3382 ADOPTED**

Senator Uresti called from the President's table the Conference Committee Report on **HB 3382**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

On motion of Senator Uresti, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

**SENATE RESOLUTION 1194**

Senator Averitt offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 80th Legislature, Regular Session, 2007, That Senate Rule 12.03 be suspended in part as provided by Senate Rule 12.08 to enable the conference committee appointed to resolve the differences on **SB 12** (programs for the enhancement of air quality, including energy efficiency standards in state purchasing and energy consumption; providing penalties) to consider and take action on the following matters:

(1) Senate Rules 12.03(3) and (4) are suspended to permit the committee to change the text of SECTION 1.05 of the bill by adding the following text at the end of Subsection (e), Section 382.213, Health and Safety Code:

The only cost to be paid by a recycler for the residual scrap metal of vehicles retired under this section shall be the cost of transportation of the residual scrap metal to the recycling facility.

Explanation: The change is necessary to allow recyclers to pay only the cost of transporting residual scrap metal when receiving scrap metal from vehicles retired under a low-income vehicle repair assistance, retrofit, and accelerated vehicle retirement program.

(2) Senate Rules 12.03(3) and (4) are suspended to permit the committee to change the text of SECTION 3.02 of the bill by adding a new Subsection (f), Section 388.005, Health and Safety Code, to read as follows:

(f) This section does not apply to an institution of higher education or a state agency if:

(1) the State Energy Conservation Office determines that, before September 1, 2007, the institution or agency adopted a plan for conserving energy under which the institution or agency has set a percentage goal for reducing electric consumption; and

(2) the institution or agency submits reports on its conservation plan not less than quarterly to the governor, the Legislative Budget Board, and the State Energy Conservation Office.

Explanation: The change is necessary to exempt institutions of higher education and state agencies from the energy efficiency requirements of Section 388.005, Health and Safety Code, if the institution or agency has already implemented an energy efficiency plan.

**SR 1194** was read and was adopted without objection.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 12 ADOPTED**

Senator Averitt called from the President's table the Conference Committee Report on **SB 12**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

On motion of Senator Averitt, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 539 ADOPTED**

Senator Ellis, on behalf of Senator West, called from the President's table the Conference Committee Report on **HB 539**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

On motion of Senator Ellis, on behalf of Senator West, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

**(President in Chair)**

**VOTE RECONSIDERED ON  
SENATE BILL 482**

On motion of Senator Fraser and by unanimous consent, the vote by which the Conference Committee Report on **SB 482** was adopted was reconsidered.

Question — Shall the Conference Committee Report on **SB 482** be adopted?

On motion of Senator Fraser and by unanimous consent, **SB 482** was recommitted to the conference committee.

**SENATE RESOLUTION 1206**

Senator Averitt offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 80th Legislature, Regular Session, 2007, That Senate Rule 12.03 be suspended in part as provided by Senate Rule 12.08 to enable the conference committee appointed to resolve the differences on **SB 3** (the development, management, and preservation of the water resources of the state; providing penalties) to consider and take action on the following matters:

(1) Senate Rule 12.03(2) is suspended to permit the committee to omit the following SECTION of the bill:

SECTION 3.01. LEGISLATIVE FINDINGS. The legislature finds that:

(1) the development of new water supplies to meet the growing demand for water is necessary for the sound economic development of this state and is of concern and importance to this state;

(2) feasible sites for new reservoirs are identified as having unique value in the 2006 regional water plans and the 2007 state water plan;

(3) most of the proposed reservoirs are also part of recommended strategies for fulfilling identified needs in the 2007 state water plan that may occur as early as 2010 and 2020;

(4) it is necessary to preempt actions that could circumvent the state's primacy over surface water in the state; and

(5) designation of these sites as unique reservoir sites or river or stream segments of unique ecological value is necessary for the sound economic development of this state, for the protection of natural resources, and for the purpose of promoting the public health, safety, and general welfare of this state.

Explanation: The omission of the legislative findings regarding designation of unique reservoir sites is necessary because the bill substitutes for the lists designating specific sites contained in the versions of the bill as passed by the senate and house a provision to the effect that a site is considered to be a unique reservoir site if the site is recommended for designation in the state water plan adopted by the Texas Water Development Board.

(2) Senate Rule 12.03(1) is suspended to permit the committee to change, alter, or amend text pertaining to the designation of unique reservoir sites that is not in disagreement by substituting the following SECTION:

SECTION 4.01. Section 16.051, Water Code, is amended by adding Subsection (g-1) to read as follows:

(g-1) Notwithstanding any other provisions of law, a site is considered to be a designated site of unique value for the construction of a reservoir if the site is recommended for designation in the 2007 state water plan adopted by the board and in effect on May 1, 2007. The designation of a unique reservoir site under this subsection terminates on September 1, 2015, unless there is an affirmative vote by a proposed project sponsor to make expenditures necessary in order to construct or file applications for permits required in connection with the construction of the reservoir under federal or state law.

Explanation: The senate engrossed version of the bill designated certain specific sites as unique reservoir sites. The version of the bill as passed by the house designated a slightly different list of sites for that purpose. The amendment to Section 16.051, Water Code, is necessary to substitute for those lists a provision to the effect that a site is considered to be a unique reservoir site if the site is recommended for designation in the state water plan adopted by the Texas Water Development Board and to the effect that such a designation terminates unless certain conditions are met.

**SR 1206** was read and was adopted without objection.

### CONFERENCE COMMITTEE REPORT ON SENATE BILL 3 ADOPTED

Senator Averitt called from the President's table the Conference Committee Report on **SB 3**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

On motion of Senator Averitt, the Conference Committee Report was adopted by the following vote: Yeas 29, Nays 1.

Nays: Estes.

Absent-excused: Gallegos.

### REMARKS ORDERED PRINTED

On motion of Senator Estes and by unanimous consent, the exchange between Senators Averitt and Estes regarding **SB 3** was ordered reduced to writing and printed in the *Senate Journal* as follows:

**Senator Estes:** Senator Averitt, are you familiar with my work this session on a local bill very important to my constituents and the constituents of several other Members in this body, which would allow residential leaseholders at Possum Kingdom Lake to buy the land under their homes from the Brazos River Authority?

**Senator Averitt:** That's correct.

**Senator Estes:** And do you recall that my work on this issue was manifest in the form of Senate Bill 1326 which earlier passed the Senate by a large majority and has passed the House by a large majority in the form of a floor amendment to your Senate Bill 3?

**Senator Averitt:** That is correct. And let me back up on the answer to that first question.

**Senator Estes:** We can take all the time you need on it.

**Senator Averitt:** I know it does primarily affect the Possum Kingdom region which is in your district, but the Brazos River Authority's jurisdiction stretches across many senatorial districts in a broad stretch of the State of Texas.

**Senator Estes:** That's correct. OK, thank you. Can you explain why the language of my bill that passed both houses by such large margins is so conspicuous by its absence from Senate Bill 3?

**Senator Averitt:** Senator Estes, I know you worked very hard on that bill. And I also know that you know that I was never comfortable with how the language was written as it came out of the Senate or out of the Committee. But it was a bill with your name on it. You were moving the process forward, and I was glad to facilitate that process. However, when it was put on as an amendment to a bill that has my name on it, I couldn't get comfortable with a piece of legislation that was gaining an automatic discount to folks, an arbitrary number discount of state property, and, therefore, I thought it best and asked the House sponsor that we take it out.

**Senator Estes:** But, obviously, a large percentage of the body and the other body was comfortable with it, but you weren't comfortable with it.

**Senator Averitt:** I was not. And there was another problem, that bill got filed at 11:59, Senator, one more amendment probably would've pushed it over the limit, so we were pushing the limit, as it was.

**Senator Estes:** All right, well I appreciate you expediting it. Now your district includes McLennan County and the City of Waco, where the Brazos River Authority has its headquarters.

**Senator Averitt:** McLennan County. That's correct.

**Senator Estes:** Do you consider the Brazos River Authority to be a constituent of yours?

**Senator Averitt:** There are several people who work at the Brazos River Authority that live in my senatorial district. There are many that work in your senatorial district, Senator Duncan's district, Senator Ogden's district, Senator Jackson's district, and on and on.

**Senator Estes:** Would you agree that the Brazos River Authority is, for all practical purposes, a state agency whose primary mission is the management and conservation of its water resources?

**Senator Averitt:** It is a quasi-state agency whose primary function is to maintain and preserve the resources related to the Brazos River Basin.

**Senator Estes:** Can you explain how the Brazos River Authority generates the funds it needs to accomplish its mission?

**Senator Averitt:** Primarily through fees they charge for the water that they manage.

**Senator Estes:** OK. So there's no general appropriations to the Brazos River Authority?

**Senator Averitt:** There is none.

**Senator Estes:** OK. So even though the Brazos River Authority does not receive any general appropriations, would you agree that the money it generates to sustain its mission are, in fact, public funds and belong to the people of Texas?

**Senator Averitt:** I think you're probably right on that.

**Senator Estes:** OK. Do you think a state agency like the Brazos River Authority should be allowed to use public funds to hire a lobby firm to advance and protect its interests in the Texas Legislature?

**Senator Averitt:** You know, that's a question that we always deal with, Senator Estes, on which group should lobby. Should teachers be allowed to lobby should public employees be allowed to lobby, river authorities, and so on and so forth. It's an issue that is debated in this Chamber time and again.

**Senator Estes:** What do you think?

**Senator Averitt:** I think there are, certainly, instances where that's a necessary function.

**Senator Estes:** So, in other words, this money that belongs to the people of Texas is being used to hire powerful lobby firms in Austin to thwart the will of this Senate and this House?

**Senator Averitt:** I'm not aware of their using lobby money to thwart the will of the Senate. I'm not advised on any of that.

**Senator Estes:** Do you think the Texas Legislature exercises sufficient oversight of the Brazos River Authority and other river authorities?

**Senator Averitt:** That's another question of, you know, that will be debated as we go forward. There was an extensive study done a few years ago on whether or not a river authority should undergo Sunset.

**Senator Estes:** Well that was my next question.

**Senator Averitt:** And it was determined at that time, that that was probably not an appropriate course of action. Senator Estes, I know that that's an issue that's on your mind, it's on Senator Hegar's mind, and it should be an item of discussion as we go forward.

**Senator Estes:** Well I was just asking what you think about it. Do you think these river authorities, including the Brazos River Authority, should be, perhaps go through the Sunset process?

**Senator Averitt:** I look forward to studying that issue with you.

**Senator Estes:** All right. So you're undecided? OK. In the future would you be willing to work with me, our colleagues, and perhaps the Governor's Office on the concerns some of us have with management and operations of the Brazos River Authority and other river authorities?

**Senator Averitt:** We should always be concerned with the management of any of the, of our public or quasi-public agencies.

**Senator Estes:** All right. I'm just about finished here. Chairman Averitt, I appreciate you for having this conversation with me publicly, and I appreciate the opportunity to serve as your Vice-chairman of the Senate Natural Resources Committee. I am looking forward to working with you on these and other issues in the days ahead. I thank you.

### CONFERENCE COMMITTEE REPORT ON SENATE BILL 228 ADOPTED

Senator Harris called from the President's table the Conference Committee Report on **SB 228**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

On motion of Senator Harris, the Conference Committee Report was adopted by the following vote: Yeas 29, Nays 1.

Nays: Van de Putte.

Absent-excused: Gallegos.

### MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

May 27, 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 ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

**HB 899** (144 Yeas, 0 Nays, 2 Present, not voting)  
**HB 1481** (146 Yeas, 2 Nays, 2 Present, not voting)  
**HB 1623** (135 Yeas, 7 Nays, 2 Present, not voting)  
**HB 1638** (147 Yeas, 0 Nays, 2 Present, not voting)  
**HB 1864** (146 Yeas, 0 Nays, 2 Present, not voting)  
**HB 2644** (143 Yeas, 1 Nays, 3 Present, not voting)  
**HB 2819** (147 Yeas, 0 Nays, 2 Present, not voting)  
**HB 2823** (146 Yeas, 0 Nays, 2 Present, not voting)  
**HB 3385** (144 Yeas, 0 Nays, 2 Present, not voting)  
**HB 3613** (147 Yeas, 0 Nays, 2 Present, not voting)  
**SB 6** (143 Yeas, 0 Nays, 2 Present, not voting)  
**SB 765** (129 Yeas, 14 Nays, 2 Present, not voting)  
**SB 1499** (144 Yeas, 0 Nays, 2 Present, not voting)  
**SB 1562** (136 Yeas, 6 Nays, 2 Present, not voting)  
**SB 1871** (144 Yeas, 0 Nays, 2 Present, not voting)

Respectfully,

/s/Robert Haney, Chief Clerk  
House of Representatives

### SENATE RESOLUTION 1180

Senator Seliger offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 80th Legislature, Regular Session, 2007, That Senate Rule 12.03 be suspended in part as provided by Senate Rule 12.08, to enable the conference committee appointed to resolve the differences on **HB 2833** (the licensing and regulation of certain private security services) to consider and take action on the following matter:

Senate Rule 12.03(1) is suspended to permit the committee to change the text of SECTION 5 of the bill by substituting Paragraph (C), Subdivision (2), Subsection (c), Section 1702.113, Occupations Code, to read as follows:

(C) provides as a possible punishment confinement in a jail other than a state jail felony facility; or

Explanation: The change is necessary to correct a grammatical error.

Senate Rule 12.03(1) is suspended to permit the committee to change the text of SECTION 5 of the bill by substituting Paragraph (C), Subdivision (3), Subsection (c), Section 1702.113, Occupations Code, to read as follows:

(C) provides as a possible punishment confinement in a jail other than a state jail felony facility; or

Explanation: The change is necessary to correct a grammatical error.

**SR 1180** was read and was adopted without objection.

**SENATE RESOLUTION 1183**

Senator Carona offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 80th Legislature, Regular Session, 2007, That Senate Rule 12.03 be suspended in part as provided by Senate Rule 12.08 to enable the conference committee appointed to resolve the differences on **SB 1119** (authority of a local authority to implement a photographic traffic signal enforcement system; providing for the imposition of civil penalties; providing a criminal penalty) to consider and take action on the following matters:

(1) Senate Rules 12.03(3) and (4) are suspended to permit the conference committee to add the following sections to proposed Chapter 707, Transportation Code:

Sec. 707.006. GENERAL SURVEILLANCE PROHIBITED; OFFENSE. (a) A local authority shall operate a photographic traffic control signal enforcement system only for the purpose of detecting a violation or suspected violation of a traffic-control signal.

(b) A person commits an offense if the person uses a photographic traffic signal enforcement system to produce a recorded image other than in the manner and for the purpose specified by this chapter.

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

Sec. 707.007. AMOUNT OF CIVIL PENALTY; LATE PAYMENT PENALTY. If a local authority enacts an ordinance to enforce compliance with the instructions of a traffic-control signal by the imposition of a civil or administrative penalty, the amount of:

(1) the civil or administrative penalty may not exceed \$75; and

(2) a late payment penalty may not exceed \$25.

Sec. 707.008. DEPOSIT OF REVENUE FROM CERTAIN TRAFFIC PENALTIES. (a) Not later than the 60th day after the end of a local authority's fiscal year, after deducting amounts the local authority is authorized by Subsection (b) to retain, the local authority shall:

(1) send 50 percent of the revenue derived from civil or administrative penalties collected by the local authority under this section to the comptroller for deposit to the credit of the regional trauma account established under Section 782.002, Health and Safety Code; and

(2) deposit the remainder of the revenue in a special account in the local authority's treasury that may be used only to fund traffic safety programs, including pedestrian safety programs, public safety programs, intersection improvements, and traffic enforcement.

(b) A local authority may retain an amount necessary to cover the costs of:

(1) purchasing or leasing equipment that is part of or used in connection with the photographic traffic signal enforcement system in the local authority;

(2) installing the photographic traffic signal enforcement system at sites in the local authority, including the costs of installing cameras, flashes, computer equipment, loop sensors, detectors, utility lines, data lines, poles and mounts, networking equipment, and associated labor costs;

(3) operating the photographic traffic signal enforcement system in the local authority, including the costs of creating, distributing, and delivering violation notices, review of violations conducted by employees of the local authority, the processing of fine payments and collections, and the costs associated with administrative adjudications and appeals; and

(4) maintaining the general upkeep and functioning of the photographic traffic signal enforcement system.

(c) Chapter 133, Local Government Code, applies to fee revenue described by Subsection (a)(1).

(d) If under Section 133.059, Local Government Code, the comptroller conducts an audit of a local authority and determines that the local authority retained more than the amounts authorized by this section or failed to deposit amounts as required by this section, the comptroller may impose a penalty on the local authority equal to twice the amount the local authority:

(1) retained in excess of the amount authorized by this section; or

(2) failed to deposit as required by this section.

Explanation: This change is necessary to provide for the administration of a civil or administrative penalty imposed by a local authority to enforce compliance with the instructions of a traffic-control signal and use of the money collected to help fund regional emergency medical services.

(2) Senate Rules 12.03(3) and (4) are suspended to permit the conference committee to add the following:

SECTION 4. Section 133.004, Local Government Code, is amended to read as follows:

Sec. 133.004. CIVIL FEES. This chapter applies to the following civil fees:

(1) the consolidated fee on filing in district court imposed under Section 133.151;

(2) the filing fee in district court for basic civil legal services for indigents imposed under Section 133.152;

(3) the filing fee in courts other than district court for basic civil legal services for indigents imposed under Section 133.153;

(4) the filing fees for the judicial fund imposed in certain statutory county courts under Section 51.702, Government Code;

(5) the filing fees for the judicial fund imposed in certain county courts under Section 51.703, Government Code;

(6) the filing fees for the judicial fund imposed in certain statutory probate courts under Section 51.704, Government Code;

(7) fees collected under Section 118.015;

(8) marriage license fees for the family trust fund collected under Section 118.018;

(9) marriage license or declaration of informal marriage fees for the child abuse and neglect prevention trust fund account collected under Section 118.022; ~~and~~

(10) the filing fee for the judicial fund imposed in district court, statutory county court, and county court under Section 133.154; and

(11) the portion of the civil or administrative penalty described by Section 707.008(a)(1), Transportation Code, imposed by a local authority to enforce compliance with the instructions of a traffic-control signal.

SECTION 5. Subtitle B, Title 9, Health and Safety Code, is amended by adding Chapter 782 to read as follows:

CHAPTER 782. REGIONAL EMERGENCY MEDICAL SERVICES

Sec. 782.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Health and Human Services Commission.

(2) "Commissioner" means the executive commissioner of the Health and Human Services Commission.

Sec. 782.002. REGIONAL TRAUMA ACCOUNT. (a) The regional trauma account is created as a dedicated account in the general revenue fund of the state treasury. Money in the account may be appropriated only to the commission to make distributions as provided by Section 782.003.

(b) The account is composed of money deposited to the credit of the account under Section 707.008, Transportation Code, and the earnings of the account.

(c) Sections 403.095 and 404.071, Government Code, do not apply to the account.

Sec. 782.003. PAYMENTS FROM THE REGIONAL TRAUMA ACCOUNT.

(a) The commissioner shall use money appropriated from the regional trauma account established under Section 782.002 to fund uncompensated care of designated trauma facilities and county and regional emergency medical services located in the area served by the trauma service area regional advisory council that serves the local authority submitting money under Section 707.008, Transportation Code.

(b) In any fiscal year, the commissioner shall use:

(1) 96 percent of the money appropriated from the account to fund a portion of the uncompensated trauma care provided at facilities designated as state trauma facilities by the Department of State Health Services;

(2) two percent of the money appropriated from the account for county and regional emergency medical services;

(3) one percent of the money appropriated from the account for distribution to the 22 trauma service area regional advisory councils; and

(4) one percent of the money appropriated from the account to fund administrative costs of the commission.

(c) The money under Subsection (b) shall be distributed in proportion to the amount deposited to the account from the local authority.

Explanation: This change is necessary to provide that money from civil or administrative penalties imposed by a local authority to enforce compliance with the instructions of a traffic-control signal is to be used for regional emergency medical services.

(3) Senate Rules 12.03(3) and (4) are suspended to permit the conference committee to add the following:

SECTION 6. Section 707.008, Transportation Code, as added by this Act, and Section 782.002, Health and Safety Code, as added by this Act, apply to revenue received by a local authority unit of this state from the imposition of a civil or administrative penalty on or after the effective date of this Act, regardless of whether the penalty was imposed before, on, or after the effective date of this Act.

SECTION 7. Not later than December 1, 2007, the executive commissioner of the Health and Human Services Commission shall adopt rules to implement Chapter 782, Health and Safety Code, as added by this Act.

Explanation: This change is necessary to implement the changes in law that provide for the use of money from civil or administrative penalties imposed by a local authority to enforce compliance with the instructions of a traffic-control signal.

(4) Senate Rule 12.03(2) is suspended to permit the conference committee to omit text from the section containing the effective date as follows:

(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. 125, Acts of the 80th Legislature, Regular Session, 2007, is enacted and becomes law.

Explanation: The language making the bill contingent on S.B. No. 125 taking effect is no longer necessary since that bill has been incorporated into the conference committee report for S.B. No. 1119.

**SR 1183** was read and was adopted without objection.

#### **CONFERENCE COMMITTEE REPORT ON SENATE BILL 1119 ADOPTED**

Senator Carona called from the President's table the Conference Committee Report on **SB 1119**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

On motion of Senator Carona, the Conference Committee Report was adopted by the following vote: Yeas 28, Nays 2.

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

Nays: Patrick, Seliger.

Absent-excused: Gallegos.

#### **CONFERENCE COMMITTEE REPORT ON SENATE BILL 101 ADOPTED**

Senator Shapiro called from the President's table the Conference Committee Report on **SB 101**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

On motion of Senator Shapiro, the Conference Committee Report was adopted by the following vote: Yeas 28, Nays 2.

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

Nays: Ogden, Shapleigh.

Absent-excused: Gallegos.

### REASON FOR VOTE

Senator Van de Putte submitted the following reason for vote on the Conference Committee Report on **SB 101**:

I intended to vote Nay on **SB 101**, relating to the automatic admission of undergraduate students to general academic teaching institutions (Top Ten Percent Rule), but instead voted Aye because of the assurances I received from Governor Perry and Commissioner Paredes of the Texas Higher Education Coordinating Board. In a letter dated May 27, 2007, to Senator Florence Shapiro, Commissioner Paredes elaborates on Governor Perry's intention to use a portion of funding to provide scholarships (letter on file with Journal Clerk). I believe that many students are not able to attend college because of the rising cost of tuition and textbooks, not because they lack qualifications to gain admittance or lack the ambition to succeed. In addition to safeguards regarding outreach, Senate Bill 101 comes with, at a minimum, an additional \$4 million per year in new scholarship money for Texas students. Therefore, I voted Aye on Senate Bill 101.

VAN DE PUTTE

### SENATE RESOLUTION 1171

Senator Zaffirini offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 80th Legislature, Regular Session, 2007, That Senate Rule 12.03 be suspended in part as provided by Senate Rule 12.08 to enable the conference committee appointed to resolve the differences on **SB 1871** (the compilation and reporting by the Texas Education Agency of certain data regarding students enrolled in public school or in preschool programs) to consider and take action on the following matter:

Senate Rule 12.03(4) is suspended to permit the committee to add the following:

SECTION 1. Section 28.006, Education Code, is amended by amending Subsection (d) and adding Subsection (d-1) to read as follows:

(d) The superintendent of each school district shall:

(1) report to the commissioner and the board of trustees of the district the results of the reading instruments; ~~and~~

(2) report, in writing, to a student's parent or guardian the student's results on the reading instrument; and

(3) using the school readiness certification system provided to the school district in accordance with Section 29.161(e), report electronically each student's raw score on the reading instrument to the agency for use in the school readiness certification system.

(d-1) The agency shall contract with the State Center for Early Childhood Development to receive and use scores under Subsection (d)(3) on behalf of the agency.

SECTION 3. Section 29.161, Education Code, is amended by amending Subsection (c) and adding Subsections (d), (e), and (f) to read as follows:

(c) The system must:

(1) be reflective of research in the field of early childhood care and education;

(2) be well-grounded in the cognitive, social, and emotional development of young children; ~~and~~

(3) apply a common set of criteria to each program provider seeking certification, regardless of the type of program or source of program funding; and

(4) be capable of fulfilling the reporting and notice requirements of Sections 28.006(d) and (g).

(d) The agency shall collect each student's raw score results on the reading instrument administered under Section 28.006 from each school district using the system created under Subsection (a) and shall contract with the State Center for Early Childhood Development for purposes of this section.

(e) The State Center for Early Childhood Development shall, using funds appropriated for the school readiness certification system, provide the system created under Subsection (a) to each school district to report each student's raw score results on the reading instrument administered under Section 28.006.

(f) The agency shall:

(1) provide assistance to the State Center for Early Childhood Development in developing and adopting the school readiness certification system under this section, including providing access to data for the purpose of locating the teacher and campus of record for students; and

(2) require confidentiality and other security measures for student data provided to the State Center for Early Childhood Development as the agency's agent, consistent with the Family Educational Rights and Privacy Act (20 U.S.C. Section 1232g).

Explanation: The change is necessary to add provisions to the bill related to the collection of data regarding students enrolled in preschool programs.

**SR 1171** was read and was adopted without objection.

### **CONFERENCE COMMITTEE REPORT ON SENATE BILL 1871 ADOPTED**

Senator Zaffirini called from the President's table the Conference Committee Report on **SB 1871**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

On motion of Senator Zaffirini, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 892 ADOPTED**

Senator Fraser called from the President's table the Conference Committee Report on **HB 892**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

On motion of Senator Fraser, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 2833 ADOPTED**

Senator Seliger called from the President's table the Conference Committee Report on **HB 2833**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

On motion of Senator Seliger, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

**SENATE RESOLUTION 1188**

Senator Shapiro offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 80th Legislature, Regular Session, 2007, That Senate Rule 12.03 be suspended in part as provided by Senate Rule 12.08 to enable the conference committee appointed to resolve the differences on **HB 2237** (relating to grants, programs and innovative governance structures for dropout prevention, high school success, and college and workforce readiness in public schools) to consider and take action on the following matter:

Senate Rules 12.03(3) and (4) are suspended to permit the committee to add the following:

SECTION 8. (a) Subchapter A, Chapter 28, Education Code, is amended by adding Section 28.014 to read as follows:

Sec. 28.014. COLLEGE PREPARATORY COURSES. (a) The commissioner of education and the commissioner of higher education shall develop and recommend to the State Board of Education for adoption under Section 28.002 the essential knowledge and skills of courses in college preparatory mathematics, science, social studies, and English language arts. The courses must be designed:

(1) for students at the 12th grade level who do not meet college readiness standards on an end-of-course assessment instrument required under Section 39.023(c); and

(2) to prepare students for success in entry-level college courses.

(b) A student who successfully completes a course developed under this section may use the credit earned in the course toward satisfying the applicable mathematics or science curriculum requirement for the recommended or advanced high school program under Section 28.025.

(c) The agency, in consultation with the Texas Higher Education Coordinating Board, shall adopt an end-of-course assessment instrument for each course developed under this section to ensure the rigor of the course. A school district shall, in accordance with State Board of Education rules, administer the end-of-course assessment instrument to a student enrolled in a course developed under this section. Each school district shall adopt a policy that requires a student's performance on the end-of-course assessment instrument to account for 15 percent of the student's final grade for the course. A student's performance on an end-of-course assessment instrument administered under this subsection may be used, on a scale of 0-40, in calculating whether the student satisfies the graduation requirements established under Section 39.025.

(d) The agency, in coordination with the Texas Higher Education Coordinating Board, shall adopt a series of questions to be included in an end-of-course assessment instrument administered under Subsection (c) to be used for purposes of Section 51.3062. The questions must be developed in a manner consistent with any college readiness standards adopted under Sections 39.113 and 51.3062. A student's performance on a question adopted under this subsection may not be used to determine the student's performance on an end-of-course assessment instrument.

(e) The State Board of Education shall adopt instructional materials for a course developed under this section in accordance with Chapter 31. The instructional materials must include technology resources that enhance the effectiveness of the course and draw on established best practices.

(f) To the extent applicable, the commissioner shall draw from curricula and instructional materials developed under Sections 28.008 and 61.0763 in developing a course and related instructional materials under this section. Not later than September 1, 2010, the State Board of Education shall adopt essential knowledge and skills for each course developed under this section. The State Board of Education shall make each course developed under this section and the related instructional materials available to school districts not later than the 2014-2015 school year. As required by Subsection (c), a school district shall adopt a policy requiring a student's performance on an end-of-course assessment instrument administered under that subsection to account for 15 percent of the student's grade for a course developed under this section not later than the 2014-2015 school year. This subsection expires September 1, 2015.

(b) This section takes effect only if S.B. No. 1031, Acts of the 80th Legislature, Regular Session, 2007, takes effect. If S.B. No. 1031, Acts of the 80th Legislature, Regular Session, 2007, does not take effect, this section has no effect.

Explanation: The change is necessary to add a provision to the bill related to college preparatory courses.

**SR 1188** was read and was adopted by the following vote: Yeas 29, Nays 1.

Nays: Lucio.

Absent-excused: Gallegos.

(Senator Nelson in Chair)

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 2237 ADOPTED**

Senator Shapiro called from the President's table the Conference Committee Report on **HB 2237**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

On motion of Senator Shapiro, the Conference Committee Report was adopted by the following vote: Yeas 29, Nays 1.

Nays: Lucio.

Absent-excused: Gallegos.

**REASON FOR VOTE**

Senator Lucio submitted the following reason for vote on the Conference Committee Report on **HB 2237**:

I voted against **HB 2237** because the House refused to accept two important amendments offered by Senator Van de Putte and myself that would have greatly benefited the classroom environment for students with disabilities and improved their academic success. The intent of the legislation is related to drop-out prevention, high school success, and college and workforce readiness. I strongly believe that our amendments would have helped achieve this goal for students with disabilities.

LUCIO

**MESSAGE FROM THE HOUSE**

HOUSE CHAMBER  
Austin, Texas  
May 27, 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 ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

**HB 4** (144 Yeas, 1 Nays, 2 Present, not voting)

**HB 610** (144 Yeas, 0 Nays, 2 Present, not voting)

**HB 945** (143 Yeas, 0 Nays, 2 Present, not voting)

**HB 1113** (147 Yeas, 0 Nays, 2 Present, not voting)

**HB 1137** (145 Yeas, 0 Nays, 2 Present, not voting)

**HB 1146** (145 Yeas, 3 Nays, 2 Present, not voting)

**HB 1251** (135 Yeas, 5 Nays, 2 Present, not voting)

**HB 1267** (139 Yeas, 8 Nays, 2 Present, not voting)

**HB 2383** (148 Yeas, 0 Nays, 2 Present, not voting)

**HB 3200** (141 Yeas, 3 Nays, 2 Present, not voting)

**HB 3674** (142 Yeas, 1 Nays, 2 Present, not voting)

**SB 9** (139 Yeas, 4 Nays, 2 Present, not voting)

**SB 10** (145 Yeas, 3 Nays, 2 Present, not voting)

**SB 960** (141 Yeas, 0 Nays, 2 Present, not voting)

**SB 1332** (145 Yeas, 0 Nays, 2 Present, not voting)

**SB 1731** (144 Yeas, 0 Nays, 2 Present, not voting)

Respectfully,

/s/Robert Haney, Chief Clerk  
House of Representatives

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 1267 ADOPTED**

Senator Seliger called from the President's table the Conference Committee Report on **HB 1267**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

On motion of Senator Seliger, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 1168 ADOPTED**

Senator Shapleigh called from the President's table the Conference Committee Report on **HB 1168**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

On motion of Senator Shapleigh, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 1111 ADOPTED**

Senator Uresti called from the President's table the Conference Committee Report on **HB 1111**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

On motion of Senator Uresti, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

**(President in Chair)**

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 1058 ADOPTED**

Senator Ellis, on behalf of Senator West, called from the President's table the Conference Committee Report on **SB 1058**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

On motion of Senator Ellis, on behalf of Senator West, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 945 ADOPTED**

Senator Hinojosa called from the President's table the Conference Committee Report on **HB 945**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

On motion of Senator Hinojosa, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 2644 ADOPTED**

Senator Ellis, on behalf of Senator West, called from the President's table the Conference Committee Report on **HB 2644**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

On motion of Senator Ellis, on behalf of Senator West, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 199 ADOPTED**

Senator Nelson called from the President's table the Conference Committee Report on **SB 199**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

On motion of Senator Nelson, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 3581 ADOPTED**

Senator Wentworth called from the President's table the Conference Committee Report on **HB 3581**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

On motion of Senator Wentworth, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

### SENATE RESOLUTION 1204

Senator Carona offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 80th Legislature, Regular Session, 2007, That Senate Rule 12.03 be suspended in part as provided by Senate Rule 12.08 to enable the conference committee appointed to resolve the differences on **SB 11** (relating to homeland security; providing penalties) to consider and take action on the following matter:

Senate Rules 12.03(3) and (4) are suspended to permit the conference committee to add the following new article:

#### ARTICLE 18. MISCELLANEOUS PROVISIONS RELATING TO HOMELAND SECURITY AND BORDER SECURITY

SECTION 18.01. Subchapter A, Chapter 421, Government Code, is amended by adding Section 421.0025 to read as follows:

Sec. 421.0025. BORDER SECURITY COUNCIL. (a) The Border Security Council consists of members appointed by the governor.

(a-1) At least one-third of the members appointed under Subsection (a) must be residents of the Texas-Mexico border region, as defined by Section 2056.002.

(b) The Border Security Council shall develop and recommend to the office of the governor performance standards, reporting requirements, audit methods, and other procedures to ensure that funds allocated by the office of the governor for purposes related to security at or near this state's international border are used properly and that the recipients of the funds are accountable for the proper use of the funds.

(c) The Border Security Council shall advise the office of the governor regarding the allocation of funds by the office for purposes related to security at or near this state's international border. Recommendations relating to the allocation of those funds must be made by a majority of the members of the council.

(d) The governor shall designate one member of the Border Security Council as the chair. The chair shall arrange meetings of the Border Security Council at times determined by the members of the council.

(e) The meetings of the Border Security Council are subject to the requirements of Chapter 551 to the same extent as similar meetings of the Public Safety Commission. The plans and recommendations of the Border Security Council are subject to the requirements of Chapter 552 to the same extent as similar plans and recommendations of the Department of Public Safety of the State of Texas.

(f) Service on the Border Security Council by a state officer or employee or by an officer or employee of a local government is an additional duty of the member's office or employment.

SECTION 18.02. The heading to Subchapter E, Chapter 421, Government Code, is amended to read as follows:

SUBCHAPTER E. TEXAS FUSION [~~INFRASTRUCTURE PROTECTION COMMUNICATIONS~~] CENTER

SECTION 18.03. Section 421.081, Government Code, is amended to read as follows:

Sec. 421.081. FACILITIES AND ADMINISTRATIVE SUPPORT. The Department of Public Safety of the State of Texas shall provide facilities and administrative support for the Texas Fusion [~~Infrastructure Protection Communications~~] Center.

SECTION 18.04. Subchapter H, Chapter 2155, Government Code, is amended by adding Section 2155.452 to read as follows:

Sec. 2155.452. CERTAIN CONTRACTS FOR HOMELAND SECURITY OR LAW ENFORCEMENT TECHNOLOGY. A state governmental entity that issues a request for proposals for technological products or services for homeland security or law enforcement purposes must allow a business entity to substitute the qualifications of its executive officers or managers for the qualifications required of the business entity in the request for proposals.

SECTION 18.05. Subsection (c), Article 61.02, Code of Criminal Procedure, is amended to read as follows:

(c) Criminal information collected under this chapter relating to a criminal street gang must:

(1) be relevant to the identification of an organization that is reasonably suspected of involvement in criminal activity; and

(2) consist of:

(A) a judgment under any law that includes, as a finding or as an element of a criminal offense, participation in a criminal street gang;

(B) a self-admission by the individual of criminal street gang membership that is made during a judicial proceeding; or

(C) any two of the following:

(i) [~~(A)~~] a self-admission by the individual of criminal street gang membership that is not made during a judicial proceeding;

(ii) [~~(B)~~] an identification of the individual as a criminal street gang member by a reliable informant or other individual;

(iii) [~~(C)~~] a corroborated identification of the individual as a criminal street gang member by an informant or other individual of unknown reliability;

(iv) [~~(D)~~] evidence that the individual frequents a documented area of a criminal street gang and[-] associates with known criminal street gang members;

(v) evidence that the individual[-, and] uses, in more than an incidental manner, criminal street gang dress, hand signals, tattoos, or symbols, including expressions of letters, numbers, words, or marks, regardless of the format or medium in which the symbols are displayed, that are associated with a criminal street gang that operates in an area frequented by the individual and described by Subparagraph (iv); or

(vi) [~~(E)~~] evidence that the individual has been arrested or taken into custody with known criminal street gang members for an offense or conduct consistent with criminal street gang activity.

SECTION 18.06. Article 61.06(c), Code of Criminal Procedure, is amended to read as follows:

(c) In determining whether information is required to be removed from an intelligence database under Subsection (b), the three-year period does not include any period during which the individual who is the subject of the information is:

(1) confined in a correctional facility operated by or under contract with the [institutional division or the state jail division of the] Texas Department of Criminal Justice;

(2) committed to a secure correctional facility operated by or under contract with the Texas Youth Commission, as defined by Section 51.02, Family Code; or

(3) confined in a county jail or a facility operated by a juvenile board in lieu of being confined in a correctional facility operated by or under contract with the Texas Department of Criminal Justice or being committed to a secure correctional facility operated by or under contract with the Texas Youth Commission.

SECTION 18.07. Chapter 61, Code of Criminal Procedure, is amended by adding Article 61.075 to read as follows:

Art. 61.075. RIGHT TO REQUEST EXISTENCE OF CRIMINAL INFORMATION. (a) A person or the parent or guardian of a child may request a law enforcement agency to determine whether the agency has collected or is maintaining, under criteria established under Article 61.02(c), criminal information relating solely to the person or child. The law enforcement agency shall respond to the request not later than the 10th business day after the date the agency receives the request.

(b) Before responding to a request under Subsection (a), a law enforcement agency may require reasonable written verification of the identity of the person making the request and the relationship between the parent or guardian and the child, if applicable, including written verification of an address, date of birth, driver's license number, state identification card number, or social security number.

Explanation: This addition is necessary to add an article to the bill related to miscellaneous homeland security and border security provisions concerning the Border Security Council, the Texas Fusion Center, certain contracts for homeland security or law enforcement technology, and criminal information.

**SR 1204** was read and was adopted without objection.

### **CONFERENCE COMMITTEE REPORT ON SENATE BILL 11 ADOPTED**

Senator Carona called from the President's table the Conference Committee Report on **SB 11**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

On motion of Senator Carona, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 758 ADOPTED**

Senator Nelson called from the President's table the Conference Committee Report on **SB 758**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

On motion of Senator Nelson, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 1481 ADOPTED**

Senator Uresti called from the President's table the Conference Committee Report on **HB 1481**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

On motion of Senator Uresti, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 3826 ADOPTED**

Senator Zaffirini called from the President's table the Conference Committee Report on **HB 3826**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

On motion of Senator Zaffirini, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 6 ADOPTED**

Senator Zaffirini called from the President's table the Conference Committee Report on **SB 6**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

On motion of Senator Zaffirini, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 1332 ADOPTED**

Senator Van de Putte, on behalf of Senator West, called from the President's table the Conference Committee Report on **SB 1332**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

On motion of Senator Van de Putte, on behalf of Senator West, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 3851 ADOPTED**

Senator Shapiro called from the President's table the Conference Committee Report on **HB 3851**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

On motion of Senator Shapiro, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 8 ADOPTED**

Senator Janek called from the President's table the Conference Committee Report on **SB 8**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

On motion of Senator Janek, the Conference Committee Report was adopted by the following vote: Yeas 27, Nays 3.

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

Nays: Harris, Patrick, Williams.

Absent-excused: Gallegos.

**(Senator Brimer in Chair)**

**SENATE RULE 12.09(a) SUSPENDED  
(Printing and Notice of Conference Committee Reports)**

On motion of Senator Fraser and by unanimous consent, Senate Rule 12.09(a) was suspended as it relates to the Conference Committee Report on **SB 482**.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 482 ADOPTED**

Senator Fraser called from the President's table the Conference Committee Report on **SB 482**. The Conference Committee Report was again filed with the Senate on Sunday, May 27, 2007.

On motion of Senator Fraser, the Conference Committee Report was again adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

**STATEMENT OF LEGISLATIVE INTENT**

Senator Whitmire submitted the following statement of legislative intent for **SB 482**:

Because of the way CenterPoint is structurally separated from retail and power generation, the restrictions in SECTION 2 do not apply to them, even if they were to purchase another wires company. They would, however, apply on a limited basis if CenterPoint were to become affiliated with a power generator or a retail provider after January 1, 2008. At the end of the second sentence in SECTION 39.051(i), we intentionally left out the words "common holding company" to make clear that the restrictions in (h) do not apply to the relationship between the utility and its holding company.

WHITMIRE

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 2096 ADOPTED**

Senator Uresti called from the President's table the Conference Committee Report on **HB 2096**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

On motion of Senator Uresti, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 3732 ADOPTED**

Senator Averitt called from the President's table the Conference Committee Report on **HB 3732**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

On motion of Senator Averitt, the Conference Committee Report was adopted by the following vote: Yeas 15, Nays 13.

Yeas: Averitt, Carona, Deuell, Eltife, Estes, Hegar, Jackson, Janek, Nelson, Nichols, Patrick, Seliger, Shapiro, Wentworth, Williams.

Nays: Brimer, Ellis, Fraser, Harris, Hinojosa, Lucio, Ogden, Shapleigh, Uresti, Van de Putte, Watson, Whitmire, Zaffirini.

Absent: Duncan, West.

Absent-excused: Gallegos.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 2383 ADOPTED**

Senator Lucio called from the President's table the Conference Committee Report on **HB 2383**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

On motion of Senator Lucio, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 2265 ADOPTED**

Senator Averitt called from the President's table the Conference Committee Report on **HB 2265**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

On motion of Senator Averitt, the Conference Committee Report was adopted by the following vote: Yeas 24, Nays 6.

Yeas: Averitt, Brimer, Carona, Duncan, Ellis, Eltife, Estes, Hegar, Hinojosa, Jackson, Janek, Lucio, Nelson, Ogden, Patrick, Seliger, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Zaffirini.

Nays: Deuell, Fraser, Harris, Nichols, Shapiro, Williams.

Absent-excused: Gallegos.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 2814 ADOPTED**

Senator Van de Putte called from the President's table the Conference Committee Report on **HB 2814**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

On motion of Senator Van de Putte, the Conference Committee Report was adopted by the following vote: Yeas 28, Nays 2.

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

Nays: Nichols, Patrick.

Absent-excused: Gallegos.

**MESSAGE FROM THE HOUSE**

HOUSE CHAMBER

Austin, Texas

May 27, 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 ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

**HB 109** (134 Yeas, 14 Nays, 1 Present, not voting)

**HB 828** (146 Yeas, 0 Nays, 2 Present, not voting)

**HB 892** (147 Yeas, 0 Nays, 2 Present, not voting)

**HB 1111** (147 Yeas, 0 Nays, 2 Present, not voting)

Respectfully,

/s/Robert Haney, Chief Clerk  
House of Representatives

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 3560 ADOPTED**

Senator Janek called from the President's table the Conference Committee Report on **HB 3560**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

On motion of Senator Janek, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 530 ADOPTED**

Senator Nelson called from the President's table the Conference Committee Report on **SB 530**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

On motion of Senator Nelson, the Conference Committee Report was adopted by the following vote: Yeas 28, Nays 2.

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

Nays: Patrick, Williams.

Absent-excused: Gallegos.

**VOTES RECONSIDERED  
ON HOUSE BILL 2399**

On motion of Senator Shapiro and by unanimous consent, the vote by which **HB 2399** was finally passed was reconsidered.

Question — Shall **HB 2399** be finally passed?

On motion of Senator Shapiro and by unanimous consent, the vote by which **HB 2399** was passed to third reading was reconsidered.

Question — Shall **HB 2399** be passed to third reading?

On motion of Senator Shapiro and by unanimous consent, the vote by which Floor Amendment No. 1 was adopted was reconsidered.

Question — Shall Floor Amendment No. 1 to **HB 2399** be adopted?

Senator Shapiro withdrew Floor Amendment No. 1.

**HB 2399** 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-excused: Gallegos.

### **HOUSE BILL 2399 ON THIRD READING**

Senator Shapiro again moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2399** 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 again finally passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

### **CONFERENCE COMMITTEE REPORT ON SENATE BILL 1908 ADOPTED**

Senator Ellis called from the President's table the Conference Committee Report on **SB 1908**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

On motion of Senator Ellis, the Conference Committee Report was adopted by the following vote: Yeas 28, Nays 1.

Nays: Patrick.

Absent: West.

Absent-excused: Gallegos.

### **SENATE RESOLUTION 1203**

Senator Whitmire offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 80th Legislature, Regular Session, 2007, That Senate Rule 12.03 be suspended in part as provided by Senate Rule 12.08 to enable the conference committee appointed to resolve the differences on **SB 909** (the continuation and functions of the Texas Board of Criminal Justice, the Texas Department of Criminal Justice, and the Correctional Managed Health Care Committee, and to the functions of the Board of Pardons and Paroles) to consider and take action on the following matter:

Senate Rules 12.03(3) and (4) are suspended to permit the committee to add the following appropriately numbered SECTION to the bill:

SECTION \_\_\_\_\_. Subchapter D, Chapter 499, Government Code, is amended by adding Section 499.072 to read as follows:

Sec. 499.072. LOCATION OF CENTRAL PRISON UNIT. (a) The department shall conduct a feasibility study of relocating the Central Prison Unit and the adjoining prison housing units from their current location in Sugar Land, Texas, to a location that more appropriately addresses the needs of the correctional system.

(b) If relocation is determined to be in the best interest of the correctional system and the City of Sugar Land, during the course of the study the department shall examine:

(1) the costs and benefits of relocating the Central Prison Unit and the adjoining prison housing units;

(2) appropriate measures to ensure that adequate easements are granted to allow development of surrounding property; and

(3) an anticipated timeline for the relocation.

Explanation: This addition is necessary to require the Texas Department of Criminal Justice to conduct a feasibility study concerning the relocation of certain prison units and prison housing units.

**SR 1203** was read and was adopted without objection.

### **CONFERENCE COMMITTEE REPORT ON SENATE BILL 909 ADOPTED**

Senator Whitmire called from the President's table the Conference Committee Report on **SB 909**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

On motion of Senator Whitmire, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

### **CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1919 ADOPTED**

Senator Van de Putte called from the President's table the Conference Committee Report on **HB 1919**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

On motion of Senator Van de Putte, the Conference Committee Report was adopted by the following vote: Yeas 22, Nays 8.

Yeas: Averitt, Carona, Deuell, Duncan, Ellis, Estes, Hegar, Hinojosa, Janek, Lucio, Nichols, Patrick, Seliger, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Zaffirini.

Nays: Brimer, Eltife, Fraser, Harris, Jackson, Nelson, Ogden, Williams.

Absent-excused: Gallegos.

### **SENATE RESOLUTION 1189**

Senator Shapiro offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 80th Legislature, Regular Session, 2007, That Senate Rule 12.03 be suspended in part as provided by Senate Rule 12.08 to enable the conference committee appointed to resolve the differences on **HB 828** (computation of certain amounts under the Foundation School Program) to consider and take action on the following matters:

(1) Senate Rules 12.03(1) and (3) are suspended to add text to Subsection (b), Section 42.2516, Education Code, to read as follows:

(b) Subject to Subsections (b-2), (f-1), (g)<sub>2</sub> 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:

Explanation: This change is necessary to permit the adjustment of the additional state funding for property tax relief to which a school district is entitled under the Foundation School Program to reflect actions taken by the district regarding tax abatements and tax increment reinvestment zones.

(2) Senate Rule 12.03(4) is suspended to add Subsections (f-1), (f-2), and (f-3), Section 42.2516, Education Code, to read as follows:

(f-1) The commissioner shall, in accordance with rules adopted by the commissioner, adjust the amount of a school district's local revenue derived from maintenance and operations tax collections, as calculated for purposes of determining the amount of state revenue to which the district is entitled under this section, if the district, for the 2007 tax year or a subsequent tax year:

(1) adopts an exemption under Section 11.13(n), Tax Code, that was not in effect for the 2005 or 2006 tax year, or eliminates an exemption under Section 11.13(n), Tax Code, that was in effect for the 2005 or 2006 tax year;

(2) adopts an exemption under Section 11.13(n), Tax Code, at a greater or lesser percentage than the percentage in effect for the district for the 2005 or 2006 tax year;

(3) grants an exemption under an agreement authorized by Chapter 312, Tax Code, that was not in effect for the 2005 or 2006 tax year, or ceases to grant an exemption authorized by that chapter that was in effect for the 2005 or 2006 tax year;  
or

(4) agrees to deposit taxes into a tax increment fund created under Chapter 311, Tax Code, under a reinvestment zone financing plan that was not in effect for the 2005 or 2006 tax year, or ceases depositing taxes into a tax increment fund created under that chapter under a reinvestment zone financing plan that was in effect for the 2005 or 2006 tax year.

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

(1) require the commissioner to determine, as if this section did not exist, the effect under Chapter 41 and this chapter of a school district's action described by Subsection (f-1)(1), (2), (3), or (4) on the total state revenue to which the district would be entitled or the cost to the district of purchasing sufficient attendance credits to reduce the district's wealth per student to the equalized wealth level; and

(2) require an increase or reduction in the amount of state revenue to which a school district is entitled under Subsection (b) that is substantially equivalent to any change in total state revenue or the cost of purchasing attendance credits that would apply to the district if this section did not exist.

(f-3) An adjustment made by the commissioner under the rules adopted under Subsection (f-1) is final and may not be appealed.

Explanation: This change is necessary to permit the adjustment of the additional state funding for property tax relief to which a school district is entitled under the Foundation School Program to reflect actions taken by the district regarding tax abatements and tax increment reinvestment zones.

(3) Senate Rule 12.03(1) is suspended to add text to the introductory language in SECTION 2 of the conference committee report, amending Subsection (a-1), Section 42.302, Education Code, to read as follows:

SECTION 2. Effective September 1, 2010, Section 42.302(a-1), Education Code, is amended to read as follows:

Explanation: This change is necessary to make the amendment to Subsection (a-1), Section 42.302, Education Code, take effect September 1, 2010.

(4) Senate Rule 12.03(1) is suspended to add text to SECTION 3 of the conference committee report, containing the effective date of the bill, to read as follows:

SECTION 3. Except as otherwise provided by this Act, this Act takes effect September 1, 2007.

Explanation: This change is necessary to make the amendment to Subsection (a-1), Section 42.302, Education Code, take effect September 1, 2010.

**SR 1189** was read and was adopted without objection.

### **CONFERENCE COMMITTEE REPORT ON HOUSE BILL 828 ADOPTED**

Senator Shapiro called from the President's table the Conference Committee Report on **HB 828**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

On motion of Senator Shapiro, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

### **SENATE RESOLUTION 1176**

Senator Jackson offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 80th Legislature, Regular Session, 2007, That Senate Rule 12.03 be suspended in part as provided by Senate Rule 12.08 to enable the conference committee appointed to resolve the differences on **HB 1090**, relating to the establishment of a program by the Department of Agriculture to make grants to encourage the construction of facilities that generate electric energy with certain types of agricultural residues, waste, debris, or crops and to the state's goal for generating renewable energy, to consider and take action on the following matter:

Senate Rules 12.03(3) and (4) are suspended to permit the committee to add the following SECTION to the bill:

SECTION 2. Section 39.904, Utilities Code, is amended by amending Subsection (m) and adding Subsections (m-1), (m-2), (m-3), and (o) to read as follows:

(m) A renewable energy credit retired for purposes other than to meet the requirements of Subsection (c)(1) may not affect the minimum annual renewable energy requirement under Subsection (c)(1) for a retail electric provider, municipally owned utility, or electric cooperative.

(m-1) As provided by this subsection, the commission shall reduce the requirement under Subsection (c)(1) for a retail electric provider, municipally owned utility, or electric cooperative that is subject to a renewable energy requirement under this section and that serves a customer receiving electric service at transmission-level voltage if, before any year for which the commission calculates renewable energy requirements under Subsection (c)(1), the customer notifies the commission in writing that the customer chooses not to support the goal for renewable energy generation under this section for that year. The commission shall exclude from the calculation of a retail electric provider's, municipally owned utility's, or electric cooperative's requirement under Subsection (c)(1) energy sold by the retail electric provider, municipally owned utility, or electric cooperative at transmission-level voltage to customers who have submitted the notice to the commission under this subsection for the applicable year.

(m-2) The commission shall determine the reporting requirements and schedule necessary to implement Subsections (m) and (m-1).

(m-3) Subsections (m), (m-1), and (m-2) do not alter the renewable energy goals or targets established in Subsection (a) or reduce the minimum statewide renewable energy requirements of Subsection (c)(1) [~~Notwithstanding any other provision of law, the commission shall ensure that all renewable capacity installed in this state and all renewable energy credits awarded, produced, procured, or sold from renewable capacity in this state are counted toward the goal in Subsection (a).~~]

(o) The commission may establish an alternative compliance payment. An entity that has a renewable energy purchase requirement under this section may elect to pay the alternative compliance payment instead of applying renewable energy credits toward the satisfaction of the entity's obligation under this section. The commission may establish a separate alternative compliance payment for the goal of 500 megawatts of capacity from renewable energy technologies other than wind energy. The alternative compliance payment for a renewable energy purchase requirement that could be satisfied with a renewable energy credit from wind energy may not be less than \$2.50 per credit or greater than \$20 per credit. Prior to September 1, 2009, an alternative compliance payment under this subsection may not be set above \$5 per credit. In implementing this subsection, the commission shall consider:

(1) the effect of renewable energy credit prices on retail competition;  
(2) the effect of renewable energy credit prices on electric rates;  
(3) the effect of the alternative compliance payment level on the renewable energy credit market; and

(4) any other factors necessary to ensure the continued development of the renewable energy industry in this state while protecting ratepayers from unnecessary rate increases.

Explanation: The addition of the amendment to Section 39.904, Utilities Code, is necessary to clarify that a renewable energy credit retired for purposes other than to meet the state goal for renewable energy does not count toward that goal, to authorize a customer of certain retail electric providers, municipally owned utilities, or electric

cooperatives to choose not to support the goal for renewable energy generation, and to authorize an alternative compliance payment by which an entity that has a renewable energy purchase requirement may satisfy that obligation.

Senate Rules 12.03(3) and (4) are suspended to permit the committee to add the following SECTION to the bill:

SECTION 4. (a) The Public Utility Commission of Texas shall conduct a study of the effect that Section 39.904, Utilities Code, has had on:

- (1) market power in this state; and
- (2) the rates paid for electricity by residential customers in this state.

(b) Not later than January 1, 2009, the Public Utility Commission of Texas shall prepare and present to the governor, lieutenant governor, and speaker of the house of representatives a report describing the results of the study that specifies any changes in market power and any costs to or savings for residential customers because of the implementation of Section 39.904, Utilities Code.

Explanation: The addition of the requirement that the Public Utility Commission of Texas conduct a study and prepare and present a report is necessary to provide information to the governor, lieutenant governor, and speaker of the house of representatives regarding the effects of the implementation of Section 39.904, Utilities Code.

**SR 1176** was read 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:

Nays: Fraser, Patrick.

Absent-excused: Gallegos.

#### **CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1090 ADOPTED**

Senator Jackson called from the President's table the Conference Committee Report on **HB 1090**. The Conference Committee Report was filed with the Senate on Friday, May 25, 2007.

On motion of Senator Jackson, the Conference Committee Report was adopted by the following vote: Yeas 27, Nays 3.

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

Nays: Fraser, Harris, Ogden.

Absent-excused: Gallegos.

#### **REASON FOR VOTES**

Senator Fraser submitted the following reason for votes on the Conference Committee Report on **HB 1090**:

I registered a "no" vote on the adoption of the Conference Committee Report for **HB 1090** and the correlating resolution to go outside the bounds. The reason I am voting "no" on HB 1090 is because of the additional language in Section 2 of the Conference Committee Report. The changes we are making to "Subsection (m)" are a deviation from the goals we set forth in Senate Bill 20 (79th Session, 1st Called Special). I am a strong supporter of wind and renewable energy in this state. But I have a concern that this language gives the Public Utility Commission the ability to allow the larger customers (industrials) to opt out of the program. This could cause electricity rates for residential customers to increase and I am opposed to that. We must continue to grow the state's renewable portfolio, while ensuring that the incentives we are offering for wind do not harm consumers. We cannot make exceptions that will harm residential ratepayers. For these reasons, I am voting "no" on House Bill 1090.

FRASER

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 1137 ADOPTED**

Senator Zaffirini called from the President's table the Conference Committee Report on **HB 1137**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

On motion of Senator Zaffirini, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

**RECESS**

On motion of Senator Hinojosa, the Senate at 7:42 p.m. recessed until 8:45 p.m. today.

**AFTER RECESS**

The Senate met at 10:31 p.m. and was called to order by the President.

**SENATE BILL 1069 WITH HOUSE AMENDMENT**

Senator Janek called **SB 1069** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

**Amendment**

Amend **SB 1069** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED  
AN ACT

relating to the creation of the Fort Bend County Municipal Utility District No. 183; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

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

SECTION 1. Subtitle F, Title 6, Special District Local Laws Code, is amended by adding Chapter 8208 to read as follows:

CHAPTER 8208. FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO.183SUBCHAPTER A. GENERAL PROVISIONSSec. 8208.001. 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 Fort Bend County Municipal Utility District No. 183.

Sec. 8208.002. NATURE OF DISTRICT. The district is a municipal utility district in Fort Bend County created under and essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

Sec. 8208.003. CONFIRMATION ELECTION REQUIRED. If the creation of the district is not confirmed at a confirmation election held under Section 8208.055 before September 1, 2011:

- (1) the district is dissolved September 1, 2011, except that:
  - (A) any debts incurred shall be paid;
  - (B) any assets that remain after the payment of debts shall be transferred to Fort Bend 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, 2014.

Sec. 8208.004. 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 validity of the district's bonds, notes, or indebtedness; or
- (4) the legality or operation of the district or the board.

[Sections 8208.005-8208.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8208.051. BOARD OF DIRECTORS; TERMS. (a) The district is governed by a board of five directors.

(b) Directors serve staggered four-year terms.

Sec. 8208.052. ELECTION OF DIRECTORS. On the uniform election date in May of each even-numbered year, the appropriate number of directors shall be elected.

Sec. 8208.053. INITIAL DIRECTORS. (a) The initial board consists of:

- (1) John Randolph;
- (2) Stacy Eickhoff;
- (3) Karen Ross;
- (4) John Neslage; and
- (5) Stephen Eustis.

(b) Notwithstanding Section 8208.051(b), the terms of the first three directors named in Subsection (a) expire on the uniform election date in May 2008, and the terms of the last two directors named in Subsection (a) expire on the uniform election date in May 2010.

Sec. 8208.054. CONSENT OF MUNICIPALITY REQUIRED. The initial directors may not hold an election under Section 8208.055 until each municipality in whose corporate limits or extraterritorial jurisdiction the district is located has adopted a resolution consenting to the creation of the district.

Sec. 8208.055. CONFIRMATION AND INITIAL DIRECTORS ELECTION. The initial directors shall hold an election to confirm the creation of the district as provided by Section 49.102, Water Code.

Sec. 8208.056. EXPIRATION. Sections 8208.053, 8208.054, and 8208.055 and this section expire September 1, 2011.

[Sections 8208.057-8208.100 reserved for expansion]

#### SUBCHAPTER C. POWERS AND DUTIES

Sec. 8208.101. 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. 8208.102. ROAD PROJECTS. (a) To the extent authorized by Section 52, Article III, Texas Constitution, the district may construct, acquire, improve, maintain, or operate macadamized, graveled, or paved roads or turnpikes, or improvements in aid of those roads or turnpikes, inside the district.

(b) A road project must meet or exceed all applicable construction standards, zoning and subdivision requirements, and regulatory ordinances of each municipality in whose corporate limits or extraterritorial jurisdiction the district is located. If the district is located outside the extraterritorial jurisdiction of a municipality, a road project must meet all applicable construction standards, zoning and subdivision requirements, and regulatory ordinances of each county in which the district is located.

(c) The district may not undertake a road project unless each municipality in whose corporate limits or extraterritorial jurisdiction the district is located consents by ordinance or resolution.

Sec. 8208.103. COMPLIANCE WITH MUNICIPAL ORDINANCES OR RESOLUTIONS. The district shall comply with all applicable requirements of any ordinance or resolution adopted by the city council of the City of Alvin.

[Sections 8208.104-8208.150 reserved for expansion]

#### SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8208.151. TAX TO REPAY BONDS. The district may impose a tax to pay the principal of or interest on bonds issued under Section 8208.201.

[Sections 8208.152-8208.200 reserved for expansion]

#### SUBCHAPTER E. BONDS

Sec. 8208.201. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. (a) The district may issue bonds or other obligations as provided by Chapters 49 and 54, Water Code, to finance the construction, maintenance, or operation of projects under Sections 8208.101 and 8208.102.

(b) The district may not issue bonds to finance projects authorized by Section 8208.102 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 8208.102 may not exceed one-fourth of the assessed value of the real property in the district.

SECTION 2. Fort Bend County Municipal Utility District No. 183 includes all the territory contained in the following area:

TRACT I:

Being a tract or parcel containing 504.70 acres of land situated in the William Pettus League, Abstract Number 68, Fort Bend County, Texas; being all that certain called 504.6532 acre tract conveyed from J.E. Foster to H.B. Gordon, Trustee by deed recorded in Volume 393, Page 64 of the Deed Records Fort Bend County, Texas; being conveyed from H.B. Gordon, Trustee to S. Conrad Weil, Jr., Trustee, 16.668% interest as recorded in Clerk's File Number 9329669 of the Deed Records Fort Bend County, Texas; and being conveyed from Aron S. Gordon, Trustee to Asgor, Ltd. 41.666% interest as recorded in Clerk's File Number 9512339 of the Deed Records Fort Bend County, Texas; said 504.70 acre tract being more particularly described as follows (bearings are referenced to the Texas State Plain Coordinate System, South Central Zone, (NAD 83);

BEGINNING at a 1-inch iron pipe found in the west right-of-way line of the Missouri-Pacific (I.G. & N.) Railroad (width varies), being in the south line of said William Pettus League and in the north line of the Francis Bingham Survey, Abstract Number 43 and on the south line of Fort Bend County and on the north line of Brazoria County, said iron pipe marking the common northwest corner of that certain called 0.24 acre tract (Tract 3) as recorded in Clerk's File Number 99058295 of the Deed Records Brazoria County, Texas and the northeast corner of that certain called 3.00 acre tract (Tract 2) as recorded in Clerk's File Number 99058295 of the Deed Records Brazoria County, Texas, said iron pipe also marking the southeast corner of said called 504.6532 acre tract and the herein described tract;

THENCE, South  $87^{\circ}18'39''$  West (called South  $89^{\circ}44'40''$  West, 7,627.20 feet), along the north line of said Francis Bingham Survey and the south line of said William Pettus League, along the north line of Brazoria County and the south line of Fort Bend County, along the north line of said called 3.00 acre tract and the north line of that certain called 373.91 acre tract (Tract 1) as recorded in Clerk's File Number 99058295 of the Deed Records Brazoria County, Texas, and along the south line of said called 504.6532 acre tract, at a distance of 2,183.94 feet passing a found 1/2-inch iron rod which bears South  $02^{\circ}41'21''$  East, 0.72 feet, at a distance of 4,873.14 feet passing a found Axle which bears South  $02^{\circ}41'21''$  East, 5.95 feet, continuing, in all, a distance of 7,627.83 feet to a Railroad Rail found marking the southeast corner of that certain called 300 acre tract (Second Tract) as recorded in Volume 226, Page 540 of the Deed Records Fort Bend County, Texas, said Railroad Rail marking the southwest corner of said called 504.6532 acre tract and the herein described tract;

THENCE, North  $02^{\circ}44'11''$  West, (called North  $00^{\circ}18'10''$  West, 2,820.37 feet), along the east line of said called 300 acre tract and along the west line of said called 504.6532 acre tract, a distance of 2,820.37 feet to a 5/8-inch iron rod with "Terra" cap

set in the south line of that certain called 294.4 acre tract as recorded in Clerk's File Numbers 9781317 and 9809582 of the Deed Records Fort Bend County, Texas, said iron rod marking the northeast corner of said called 300 acre tract and marking the northwest corner of said called 504.6532 acre tract and the herein described tract, from which a Railroad Rail found marking the southwest corner of said called 294.4 acre tract bears South  $87^{\circ}12'30''$  West, 4,609.45 feet;

THENCE, North  $87^{\circ}01'19''$  East, (called North  $89^{\circ}27'20''$  East, 7,674.31 feet), along the south line of said called 294.4 acre tract and along the north line of said called 504.6532 acre tract, a distance of 7,676.59 feet to a 5/8-inch iron rod with "Terra" cap set marking the northwest corner of an old cemetery tract (no deed of record) and marking the most northerly northeast corner of said called 504.6532 acre tract and the herein described tract;

THENCE, South  $02^{\circ}22'59''$  West, (called South  $04^{\circ}49'00''$  West, 196.45 feet), along an easterly line of said called 504.6532 acre tract and along the west line of said cemetery tract, a distance of 195.81 feet to a 1-inch iron pipe found marking the southwest corner of said cemetery tract and marking an interior corner of said called 504.6532 acre tract and the herein described tract;

THENCE, South  $89^{\circ}07'39''$  East, (called South  $86^{\circ}41'00''$  East, 208.85 feet), along a northerly line of said called 504.6532 acre tract and along the south line of said cemetery tract, a distance of 207.11 feet to a 1-inch iron pipe found in the aforesaid west right-of-way line of the Missouri- Pacific (I.G. & N.) Railroad, marking the southeast corner of said cemetery tract and marking the most easterly northeast corner of said called 504.6532 acre tract and the herein described tract, from which the centerline of the old railroad bed bears South  $89^{\circ}07'39''$  East, 48.7 feet;

THENCE, South  $02^{\circ}23'30''$  West, (called South  $04^{\circ}49'40''$  West, 2,660.84 feet), along the east line of said called 504.6532 acre tract and along the west right-of-way line of the Missouri- Pacific (I.S. & N.) Railroad, a distance of 2,660.63 feet to the POINT OF BEGINNING and containing 504.70 acres of land. This description is based on the Land Title Survey and plat made by Terra Surveying Co., dated September, 2005, Project Number 9430-0501-S.

#### TRACT II:

Being a tract of land out of the William Pettus Survey, Abstract 68, Fort Bend County, Texas, being more particularly described as follows:

Beginning at a point on the south line of Fort Bend County, on the north line of Brazoria County, and the west right of way line of the International & Great Northern Railroad Company, predecessor to Union Pacific Railroad Company, distant 50 feet west from the centerline of track as originally constructed and operated and opposite Railroad Engineer's Station 1307+03;

Thence Northeast parallel with said railroad and 50 feet distance at right angles from the centerline of its track 2,660.63 feet to a point;

Thence East at right angles, 100 feet to the east right of way line of said railroad, also being the west right of way line of F. M. 521;

Thence Southwest parallel and 50 feet distant from the centerline of the railroad track to the south line of Fort Bend County, Texas;

Thence West 100 feet along the County line to the Point of Beginning.

Save and except any portion lying within the right of way of F. M. 521.  
Contains 6.10 Acres more or less.

SECTION 3. (a) The legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor, one of the required recipients, has submitted the notice and Act to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this Act with the governor, the lieutenant governor, and the speaker of the house of representatives within the required time.

(d) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.

SECTION 4. This Act takes effect September 1, 2007.

The amendment was read.

Senator Janek moved to concur in the House amendment to **SB 1069**.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

#### **SENATE BILL 1517 WITH HOUSE AMENDMENT**

Senator Janek called **SB 1517** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

#### **Committee Amendment No. 1**

Amend **SB 1517** by striking the sentence beginning on page 2, line 13 and substituting the following:

"Subsections (c) and (d) do not apply to an advanced placement or international baccalaureate course, or to an honors or dual credit course in the subject areas of English language arts, mathematics, science, social studies, economics, or a language other than English."

The amendment was read.

Senator Janek moved to concur in the House amendment to **SB 1517**.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

**(Senator Hegar in Chair)**

**(President in Chair)**

#### **CONFERENCE COMMITTEE ON SENATE BILL 1604 DISCHARGED**

On motion of Senator Duncan and by unanimous consent, the Senate conferees on **SB 1604** were discharged.

Question — Shall the Senate concur in the House amendment to **SB 1604**?

Senator Duncan moved to concur in the House amendment to **SB 1604**.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

### MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

May 27, 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:

**SCR 82**, In memory of Allie Pearl Haney of Roscoe.

THE HOUSE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

**HB 1** (114 Yeas, 35 Nays, 1 Present, not voting)

**SB 1266** (142 Yeas, 1 Nays, 2 Present, not voting)

**SB 1879** (143 Yeas, 1 Nays, 2 Present, not voting)

Respectfully,

/s/Robert Haney, Chief Clerk  
House of Representatives

(Midnight)

### SENATE RESOLUTION 1208

Senator Ogden offered the following resolution:

BE IT RESOLVED, BY THE Senate of the State of Texas, that Senate Rule 12.03 and 12.04, be suspended in part as provided by Senate Rule 12.08 to enable consideration of, and action on specific matters which may be contained in the Conference Committee Report on **HB 1**.

**SR 1208** was read and was adopted without objection.

### CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1 ADOPTED

Senator Ogden called from the President's table the Conference Committee Report on **HB 1**. The Conference Committee Report was filed with the Senate on Friday, May 25, 2007.

On motion of Senator Ogden, the Conference Committee Report was adopted by the following vote: Yeas 25, Nays 5.

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

Nays: Jackson, Janek, Nelson, Patrick, Shapiro.

Absent-excused: Gallegos.

**SENATE RULE 7.25 SUSPENDED**  
**(Limitation on Vote)**

On motion of Senator Ellis, 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, nor for any purpose within the last 24 hours of the session, was suspended until Monday, May 28, 2007, by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

**MESSAGE FROM THE HOUSE**

HOUSE CHAMBER  
Austin, Texas  
May 27, 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 ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

- HB 539** (143 Yeas, 0 Nays, 2 Present, not voting)
- HB 568** (140 Yeas, 1 Nays, 2 Present, not voting)
- HB 2265** (100 Yeas, 43 Nays, 2 Present, not voting)
- HB 2667** (139 Yeas, 1 Nays, 2 Present, not voting)
- HB 2814** (106 Yeas, 34 Nays, 2 Present, not voting)
- HB 3319** (143 Yeas, 0 Nays, 2 Present, not voting)
- HB 3382** (142 Yeas, 0 Nays, 2 Present, not voting)
- HB 3560** (141 Yeas, 2 Nays, 2 Present, not voting)
- HB 3581** (141 Yeas, 0 Nays, 2 Present, not voting)
- HB 3609** (142 Yeas, 2 Nays, 2 Present, not voting)
- HB 3826** (142 Yeas, 0 Nays, 2 Present, not voting)
- HB 3851** (142 Yeas, 2 Nays, 2 Present, not voting)

**SB 228** (143 Yeas, 0 Nays, 2 Present, not voting)

**SB 1058** (141 Yeas, 0 Nays, 2 Present, not voting)

**SB 1119** (125 Yeas, 18 Nays, 2 Present, not voting)

**SB 1846** (147 Yeas, 0 Nays, 2 Present, not voting)

**SB 1908** (113 Yeas, 26 Nays, 3 Present, not voting)

THE HOUSE HAS DISCHARGED ITS CONFEREES AND CONCURRED IN SENATE AMENDMENTS TO THE FOLLOWING MEASURES:

**HB 772** (146 Yeas, 0 Nays, 2 Present, not voting)

Respectfully,

/s/Robert Haney, Chief Clerk  
House of Representatives

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 482**

Senator Fraser submitted the following Conference Committee Report:

Austin, Texas  
May 26, 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 482** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

FRASER  
HARRIS  
WHITMIRE  
ELTIFE  
BRIMER

P. KING  
MILLER  
STRAUS

On the part of the Senate

On the part of the House

A BILL TO BE ENTITLED  
AN ACT

relating to competition and customer choice in the retail electric power market; providing an administrative penalty.

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

SECTION 1. Section 17.008, Utilities Code, is amended to read as follows:

Sec. 17.008. PROTECTION OF RESIDENTIAL ELECTRIC SERVICE APPLICANTS AND CUSTOMERS. (a) In this section and in Section 17.009:

(1) "Credit history":

(A) means information regarding an individual's past history of:

- (i) financial responsibility;
- (ii) payment habits; or
- (iii) creditworthiness; and

(B) does not include an individual's outstanding balance for retail electric or telecommunications service.

(2) "Credit score" means a score, grade, or value that is derived by a consumer reporting agency, as defined under Section 603(f) of the Fair Credit Reporting Act (15 U.S.C. Section 1681a(f)), using data from a credit history in any type of model, method, or program for the purpose of grading or ranking credit report data, whether derived electronically, from an algorithm, through a computer software application model or program, or through any other analogous process.

(3) "Utility payment data" means a measure that is derived by a consumer reporting agency, as defined under Section 603(f) of the Fair Credit Reporting Act (15 U.S.C. Section 1681a(f)), from a model specifically designed to correlate to utility payment histories.

(b) A retail electric provider may not deny an applicant's request to become a residential electric service customer on the basis of the applicant's credit history or credit score~~[, but may use the applicant's utility payment data until the later of January 1, 2007, or the date on which the price to beat is no longer in effect in the geographic area in which the customer is located].~~

~~(c) [Notwithstanding Subsection (b), while a retail electric provider is required to provide service to a geographic area as the affiliated retail electric provider, the provider may not deny an applicant's request to become a residential electric service customer within that geographic area on the basis of the applicant's credit history, credit score, or utility payment data.~~

~~[(d) After the date described in Subsection (b), a retail electric provider, including an affiliated retail electric provider, may not deny an applicant's request to become a residential electric service customer on the basis of the applicant's credit history, credit score, or utility payment data but may use the applicant's electric bill payment history.~~

~~[(e)] A retail electric provider may not use a credit score, a credit history, or utility payment data as the basis for determining the price for month-to-month electric service or electric service that includes a fixed price commitment of 12 months or less:~~

~~(1) for an existing residential customer; or~~

~~(2) in response to an applicant's request to become a residential electric service customer.~~

(d) On ~~[(f) After the date described in Subsection (b), on]~~ request by a customer or former customer in this state, a retail electric provider or electric utility shall timely provide to the customer or former customer bill payment history information with the retail electric provider or electric utility during the preceding 12-month period. Bill payment history information may be obtained by the customer or former customer once during each 12-month period without charge. If additional copies of bill payment history information are requested during a 12-month period, the electric service provider may charge the customer or former customer a reasonable fee for each copy.

(e) [(g)] On request by a retail electric provider, another retail electric provider or electric utility shall timely verify information that purports to show a customer's service and bill payment history with the retail electric provider or electric utility.

(f) A retail electric provider may not require a person applying for residential electric service to provide a security deposit or advance payment as a condition of service if:

(1) it can be shown that the person was a customer of one or more retail electric providers or electric utilities in this state during the entire 12-month period preceding the request for electric service; and

(2) during the preceding 12-month period, the person was not late in paying an electric service bill.

(g) If a person applying for residential electric service does not provide the documentation described in Subsection (f), nothing in this section limits ~~[(h) This section does not limit]~~ a retail electric provider's authority to require a deposit or advance payment as a condition of service.

(h) [(+)] Notwithstanding Subsection (c) [(e)], a retail electric provider may provide rewards, benefits, or credits to residential electric service customers on the basis of the customer's payment history for retail electric service to that provider.

SECTION 2. Section 39.051, Utilities Code, is amended by adding Subsections (h), (i), (j), (k), and (l) to read as follows:

(h) On or before January 1, 2008, a transmission and distribution utility, and power generation companies and retail electric providers affiliated with the transmission and distribution utility, and their common holding company shall each:

(1) have a name and logo that is distinct from the name and logo of each of the companies to which this subsection applies;

(2) have a board of directors composed exclusively of individuals who are not members of the board of directors of any of the other companies to which this subsection applies;

(3) have officers who are not officers of any of the other companies to which this subsection applies;

(4) have headquarters, operations facilities, and other office space located in a building or buildings separate and apart from the building or buildings in which the headquarters, operations facilities, and other office space where the other companies to which this subsection applies are located;

(5) maintain an arm's-length relationship in all transactions and not share information which could be used for market manipulation or market power abuse with the other companies to which this subsection applies;

(6) enter into transactions with the other companies to which this subsection applies only as permitted by a commission-approved affiliate code of conduct and only as approved by a majority of the directors of its governing board of directors;

(7) prepare separate annual financial statements in accordance with generally accepted accounting principles showing its assets and liabilities as separate and distinct from the assets of the other companies to which this subsection applies;

(8) ensure that the commission has complete access to all of the books and records of the transmission and distribution utility and to transactions between the transmission and distribution utility and any of the other companies to which this

subsection applies provided further that any entity to which this subsection applies shall ensure that the commission has complete access to all of the entity's books and records necessary for the commission to exercise its authority under this chapter;

(9) maintain separate property, equipment, offices, financing arrangements, computer systems, and information systems from the other companies to which this subsection applies; and

(10) the chief executive officer and any other employee, as designated by the commission, of each transmission and distribution company, power generation company and retail electric provider affiliated with the transmission and distribution company and owned by a common holding company shall file annually with the commission a certificate under oath affirming that, to the knowledge of such officer or employee, such company has operated during the prior 12 months in material compliance with the code of conduct as approved by the commission and applicable to such company. As provided by Section 15.030, an intentional and knowing violation of this subdivision constitutes a felony of the third degree.

(i) Subsection (h) applies only to a transmission and distribution utility that served more than 850,000 end-use customer meters on December 31, 2006, and power generation companies and retail electric providers affiliated with that transmission and distribution utility, and their common holding company. If a transmission and distribution utility served more than 850,000 end-use customer meters on December 31, 2006, and was not affiliated with a power generation company or retail electric provider on January 1, 2008, but becomes affiliated with a power generation company or retail electric provider after that date, the requirements of Subsection (h) shall apply to the transmission and distribution utility and any power generation companies and any retail electric providers affiliated with the transmission and distribution utility at the time the entities become affiliated.

(j) A transmission and distribution utility and its common holding company:

(1) shall implement safeguards adequate to ensure that creditors of the other companies to which Subsection (h) applies, other than the creditors of the transmission and distribution utility, do not have recourse against the transmission and distribution utility;

(2) shall not permit any affiliate to obtain credit, other than a subsidiary of the transmission and distribution utility, under a guarantee from the transmission and distribution utility or an arrangement that would directly or indirectly pledge assets in the rate base of the transmission and distribution utility, pledge cash, or pledge expected revenue of the transmission and distribution utility;

(3) shall not act in a manner that in any way suggests or implies that reliability of electric service, or restoration of service to a customer following an outage, is dependent upon a customer receiving service from a competitive affiliate of the transmission and distribution utility;

(4) shall not engage in any practice that implies to customers or other persons engaged in competitive electric services that service provided by a competitive affiliate of the transmission and distribution utility will result in a higher level of service from the transmission and distribution utility; and

(5) shall not temporarily assign employees engaged in transmission or distribution utility system operations to a competitive affiliate.

(k) A transmission and distribution utility or affiliate may not circumvent the provisions or the intent of Subsections (h), (i), and (j) by using any affiliate to provide information, services, or subsidies between the transmission and distribution utility and the other companies to which Subsection (h) applies.

(l) A transmission and distribution utility in conjunction with the competitive affiliates of the transmission and distribution utility may petition the commission for an exception to the restrictions contained in Subsections (h), (i), and (j). The commission shall not grant a petition under this subsection if the commission finds that the exception may harm the competitive market or create a competitive advantage.

SECTION 3. Section 39.101, Utilities Code, is amended by amending Subsections (a) and (h) and adding Subsection (i) to read as follows:

(a) Before customer choice begins on January 1, 2002, the commission shall ensure that retail customer protections are established that entitle a customer:

(1) to safe, reliable, and reasonably priced electricity, including protection against service disconnections in an extreme weather emergency as provided by Subsection (h) or in cases of medical emergency or nonpayment for unrelated services;

(2) to privacy of customer consumption and credit information; provided, however, that the release to competitive retail electric providers of the names and addresses of residential customers that were served by the affiliated retail electric provider at the end of the price to beat period shall not be considered a violation of customer privacy;

(3) to bills presented in a clear format and in language readily understandable by customers;

(4) to the option to have all electric services on a single bill, except in those instances where multiple bills are allowed under Chapters 40 and 41;

(5) to protection from discrimination on the basis of race, color, sex, nationality, religion, or marital status;

(6) to accuracy of metering and billing;

(7) to information in English and Spanish and any other language as necessary concerning rates, key terms and conditions, in a standard format that will permit comparisons between price and service offerings, and the environmental impact of certain production facilities;

(8) to information in English and Spanish and any other language as necessary concerning low-income assistance programs and deferred payment plans; and

(9) to other information or protections necessary to ensure high-quality service to customers.

(h) A retail electric provider, power generation company, aggregator, or other entity that provides retail electric service may not disconnect service to a residential customer during an extreme weather emergency in a county or on a weekend day. The entity providing service shall defer collection of the full payment of bills that are due during an extreme weather emergency until after the emergency is over and shall offer

~~[work with] customers a deferred payment plan [to establish a pay schedule for deferred bills]. For purposes of this subsection, "extreme weather emergency" means [a period when]:~~

~~(1) a day for which the National Weather Service forecasts that the [previous day's highest] temperature will not reach [did not exceed] 32 degrees Fahrenheit in a county [and the temperature is predicted to remain at or below that level for the next 24 hours according to the nearest National Weather Service reports]; [or]~~

~~(2) a day for which the National Weather Service forecasts that the heat index will reach or exceed 105 degrees Fahrenheit in a county; or~~

~~(3) a period when, [issues a heat advisory for any county in the relevant service territory, or when such an advisory has been issued] on any one of the previous two calendar days, the National Weather Service observes a heat index of 105 degrees Fahrenheit or more a county.~~

~~(i) A retail electric provider may not state or imply that it can provide a level of reliability of electric service or preferential treatment in the restoration of service following an outage that is better than another provider can provide. A retail electric provider may make claims regarding the provider's customer service reliability. The commission may impose an administrative penalty for a violation of this subsection in accordance with Section 15.024. A violation of this subsection shall be included in the highest class of violations in the classification system established by the commission under Section 15.023.~~

SECTION 4. Subchapter C, Chapter 39, Utilities Code, is amended by adding Section 39.1015 to read as follows:

Sec. 39.1015. SUSPENSION OF DISCONNECTION FOR CERTAIN CUSTOMERS. (a) In this section:

(1) "Critical care residential customer" means a residential electric customer for whom an interruption or suspension of electric service will create a dangerous or life-threatening condition.

(2) "Elderly low-income customer" means a low-income customer who is 65 years old or older.

(3) "Low-income customer" means an electric customer who is on the list maintained by the Low-Income Discount Administrator established under Section 39.903, or if there is no current list, an electric customer:

(A) whose household income is not more than 125 percent of the federal poverty guidelines;

(B) who receives food stamps from the Health and Human Services Commission; or

(C) who receives medical assistance from a state agency that administers a part of the medical assistance program.

(4) "Service provider" means a retail electric provider, power generation company, aggregator, or other entity that provides retail electric service.

(b) During the period beginning July 1 and ending September 30 of each year a service provider:

(1) may not disconnect service or authorize the disconnection of service to a critical care residential customer or elderly low-income customer who contacts the service provider regarding bill payment or in response to a disconnection notice;

(2) may not disconnect service or authorize the disconnection of service to a low-income customer other than an elderly low-income customer if the customer:

(A) contacts the service provider regarding bill payment or in response to a disconnection notice; and

(B) enters into a deferred payment plan with the service provider for the current month's electric charges and meets the terms of any then current deferred payment plan;

(3) shall request reconnection of service or reconnect service to a critical care residential customer or an elderly low-income customer whose service is disconnected before or during the period if:

(A) the customer contacts the service provider regarding bill payment or in response to a disconnection notice; or

(B) the service provider has previously been notified that the customer is a critical care residential customer;

(4) shall request reconnection of service or reconnect service to a low-income customer whose service is disconnected before or during the period if the customer enters into a deferred payment plan with the service provider; and

(5) shall rescind a request for disconnection of service to a critical care residential customer, elderly low-income customer, or low-income customer made before the period begins if the service provider is prohibited under this subsection from disconnecting or authorizing the disconnection of the customer's service during the period.

(c) A service provider may not disconnect service or authorize the disconnection of a critical care residential customer's service during the period provided by Subsection (b) regardless of whether the customer contacts the service provider as provided by Subsection (b) if the service provider has previously been notified that the customer is a critical care residential customer.

(d) A service provider shall allow a critical care residential customer, elderly low-income customer, or low-income customer to establish with the provider a deferred payment plan in person or by telephone. The service provider shall confirm the payment plan with the customer in writing. The deferred payment plan may not include a penalty for late payments accrued during the period provided by Subsection (b). The service provider shall allow a critical care residential customer, elderly low-income customer, or low-income customer to renegotiate the terms of the deferred payment plan at least one time, regardless of whether the customer's economic or financial circumstances have changed. For a low-income customer other than an elderly low-income customer, during the period provided by Subsection (b), the payment plan may require the payment of not more than 33 percent of the then current month's charges plus any due installments of a previous deferred payment plan. For a low-income customer other than an elderly low-income customer, the

service provider is not required to extend a deferred payment plan entered into under this subsection beyond the March billing cycle following the period provided by Subsection (b).

(e) A deferred payment plan established under Subsection (d) for one or more electric bills that come due during the period provided by Subsection (b) must provide:

(1) for a critical care residential customer or elderly low-income customer, that the customer is not required to pay more than 25 percent of the deferred electric bills as part of the first electric bill issued after the end of the period and that the remaining balance is to be paid in equal installments over the next five billing cycles, unless the customer requests a lesser number of installments; and

(2) for a low-income customer other than an elderly low-income customer, that the customer is required to pay not more than 33 percent of the deferred bills to initiate the agreement and that the remaining balance is to be paid in equal installments over the next five billing cycles, unless the customer requests a lesser number of installments.

(f) A service provider may pursue disconnection of electrical service for a critical care residential customer or an elderly low-income customer only after the period provided by Subsection (b) and only if the customer does not meet the terms of the deferred payment plan, unless the disconnection is otherwise prohibited. A service provider may pursue disconnection of service for a low-income customer other than an elderly low-income customer if the customer does not meet the terms of the deferred payment plan, unless the disconnection is otherwise prohibited. The service provider shall give the customer appropriate notice that the customer has not met the terms of the plan before the service provider disconnects or authorizes the disconnection of service.

(g) A service provider may encourage a critical care residential customer or elderly low-income customer to make partial payment of a deferred electric bill during the period provided by Subsection (b), but the service provider shall clearly inform the customer that the customer may not be disconnected for nonpayment before October 1 following the period provided by Subsection (b).

(h) The commission by rule shall prohibit a customer who receives a deferred payment plan under Subsection (d) and who owes a past due deferred balance from switching to a different retail electric provider.

SECTION 5. Subchapter C, Chapter 39, Utilities Code, is amended by adding Section 39.1016 to read as follows:

Sec. 39.1016. CANCELLATION FEE. A retail electric provider may not charge a residential customer who requests cancellation of retail electric service provided on a month-to-month basis a fee relating to the cancellation.

SECTION 6. Subchapter C, Chapter 39, Utilities Code, is amended by adding Section 39.1017 to read as follows:

Sec. 39.1017. COMMISSION RULES REGARDING DEPOSITS. (a) In this section, "elderly low-income customer" means an electric customer who is 65 years old or older and:

(1) whose household income is not more than 125 percent of the federal poverty guidelines;

(2) receives food stamps from the Health and Human Services Commission;

or

(3) receives medical assistance from a state agency that administers a part of the medical assistance program.

(b) Notwithstanding Section 17.008, the commission by rule shall require a retail electric provider to waive the requirement that an elderly low-income customer applying for residential electric service provide a security deposit or advance payment as a condition of service.

SECTION 7. Subchapter C, Chapter 39, Utilities Code, is amended by adding Section 39.110 to read as follows:

Sec. 39.110. PROMOTION OF RESIDENTIAL CUSTOMER CHOICE. (a) A reference in this section to "retail electric provider" includes:

(1) a successor in interest to the retail electric provider; and

(2) a provider that was an affiliate of the retail electric provider on December 31, 2006.

(b) The purpose of this section is to promote customer choice for residential customers by imposing a charge on certain retail electric providers to provide an additional incentive for them to compete for residential customers.

(c) This section applies only to a retail electric provider that on December 31, 2006, had more than 250,000 residential customers in this state and was required to offer service to residential customers at the price to beat in accordance with Section 39.202. This section does not apply to a retail electric provider at any time after the retail electric provider has not been assessed a charge under Subsection (d) for two consecutive years.

(d) The commission annually shall impose a charge on a retail electric provider if the gross number of residential customers the provider gained during a calendar year, as measured by move-in and switch transactions processed by the independent organization, in areas where customer choice is available outside the transmission and distribution utility service territory in which it was required to offer the price to beat was less than the following customer target number:

(1) for a retail electric provider with one million or more residential customers in this state on December 31, 2006, a gain of 120,000 residential customers; and

(2) for a retail electric provider with fewer than one million residential customers in this state on December 31, 2006, a gain of 45,000 residential customers.

(e) The annual charge the commission shall impose under Subsection (d) is computed by multiplying the difference between the applicable target number of residential customers gained as provided by Subsection (d)(1) or (2) and the gross number of residential customers that the retail electric provider actually gained during the relevant calendar year by:

(1) \$100 on December 31, 2007;

(2) \$200 on December 31, 2008; and

(3) \$300 on December 31, 2009.

(f) Money collected from the charge assessed under this section may be appropriated only for programs devised and directed by the commission as provided by this subsection. If appropriations from the system benefit fund are sufficient to

assist low-income electric customers by providing the 10 percent reduced rate prescribed by Section 39.903(h), the money collected from the charges under Subsection (d) may be used only for a residential customer education program under Section 39.902, including the provision of call center services when the commission conducts a customer education program. If appropriations from the system benefit fund are not sufficient to assist low-income electric customers by providing the 10 percent reduced rate prescribed by Section 39.903(h), the money collected from the charges under Subsection (d) may be appropriated only for the following purposes, in the following order of priority:

(1) to assist low-income electric customers by providing the 10 percent reduced rate prescribed by Section 39.903(h); and

(2) for a residential customer education program under Section 39.902, using money remaining after the reduced rate prescribed by Section 39.903(h) has been fully implemented.

(g) The commission may adopt rules as necessary or appropriate to carry out this section.

(h) This section expires March 31, 2010.

SECTION 8. LEGISLATIVE FINDINGS. The legislature finds that:

(1) the "filed rate" doctrine is at odds with the intent of the state legislature to restructure the electric utility industry in this state; and

(2) the "filed rate" doctrine in a right of action regarding the deregulated wholesale and retail electric markets for a violation of Section 39.157, Utilities Code, or of Sections 15.01 through 15.26, Business & Commerce Code, is abolished.

SECTION 9. Section 39.157(a), Utilities Code, is amended to read as follows:

(a) To prevent market power abuses or other violations of this section, the [The] commission shall monitor market power associated with the generation, transmission, distribution, and sale of electricity in this state. On a finding that market power abuses or other violations of this section have occurred or are presently occurring, the commission shall require reasonable mitigation of the market power by ordering the construction of additional transmission or distribution facilities, by ordering a person to cease a practice that the commission finds is a market power abuse, by seeking an injunction or civil penalties as necessary to eliminate or to remedy the market power abuse or violation as authorized by Chapter 15, by requiring refunds or disgorgement sufficient to remedy the impact of the market power abuses, by imposing an administrative penalty as authorized by Chapter 15 and in an amount not to exceed three times the actual damages to the market or the level of penalties that the Federal Energy Regulatory Commission is authorized to impose under 16 U.S.C. Section 825o-1, as amended by the federal Energy Policy Act of 2005, by ordering the auction of entitlements to uncommitted capacity as necessary to mitigate the ability of the person to engage in market power abuses for a period not to exceed two years in an amount and form to be determined by the commission, or by suspending, revoking, or amending a certificate or registration as authorized by Section 39.356, including an amendment to specify that any generation units that are covered by the registration may be required to bid at a level not more than incremental cost, including operational costs and the amortization of start-up costs over an appropriate period, in markets operated by the independent organization, provided a person subject to this

requirement shall not be prevented from receiving the market clearing price for services offered in any markets operated by the independent organization. Section 15.024(c) does not apply to an administrative penalty imposed under this section. For purposes of this subchapter, market power abuses are practices by persons possessing market power that are unreasonably discriminatory or tend to unreasonably restrict, impair, or reduce the level of competition, including practices that tie unregulated products or services to regulated products or services or unreasonably discriminate in the provision of regulated services. For purposes of this section, "market power abuses" include predatory pricing, withholding of production, precluding entry, ~~and~~ collusion, unreasonably preferential, prejudicial, or discriminatory treatment by a power generation company in selling wholesale electric generation services to retail electric providers affiliated with the power generation company as compared to sales to retail electric providers not affiliated with the power generation company, and any practice that implies to customers or other persons engaged in competitive electric services that service provided by a competitive affiliate of the utility will result in a higher level of service from the electric utility. A violation of this section or rules adopted by the commission under this section ~~[the code of conduct provided by Subsection (d)]~~ that materially impairs the ability of a person to compete in a competitive market shall be deemed to be an abuse of market power. The possession of a high market share in a market open to competition may not, of itself, be deemed to be an abuse of market power; however, this sentence shall not affect the application of state and federal antitrust laws. For purposes of this section, "uncommitted capacity" means capacity available for bidding by persons found to have committed market power abuse or affiliates of the person found to have committed market power abuse into markets operated by the independent organization.

SECTION 10. Subchapter D, Chapter 39, Utilities Code, is amended by adding Section 39.159 to read as follows:

Sec. 39.159. CONSIDERATION AND APPROVAL OF CERTAIN TRANSACTIONS. (a) To protect retail customers in this state, notwithstanding any other provision of this title, an electric utility or transmission and distribution utility must report to and obtain approval of the commission before closing any transaction in which:

(1) the electric utility or transmission and distribution utility will be merged or consolidated with another electric utility or transmission and distribution utility;

(2) at least 50 percent of the stock of the electric utility or transmission and distribution utility will be transferred or sold; or

(3) a controlling interest or operational control of the electric utility or transmission and distribution utility will be transferred.

(b) The commission shall approve a transaction under Subsection (a) if the commission finds that the transaction is in the public interest. In making its determination, the commission shall consider whether the transaction will adversely affect the reliability of service, availability of service, or cost of service of the electric utility or transmission and distribution utility. The commission shall make the determination concerning a transaction under this subsection not later than the 180th

day after the date the commission receives the relevant report. If the commission has not made a determination before the 181st day after that date, the transaction is considered approved.

(c) Subsections (a) and (b) do not apply to a transaction described by Subsection (a) for which a definitive agreement was executed before April 1, 2007, if an electric utility or transmission and distribution utility or a person seeking to acquire or merge with an electric utility or transmission and distribution utility made a filing for review of the transaction under Section 14.101 before May 1, 2007, and the resulting proceeding was not withdrawn.

(d) If an electric utility or transmission and distribution utility or a person seeking to acquire or merge with an electric utility or transmission and distribution utility files with the commission a stipulation, representation, or commitment in advance of or as part of a filing under this section or under Section 14.101, the commission may enforce the stipulation, representation, or commitment to the extent that the stipulation, representation, or commitment is consistent with the standards provided by this section and Section 14.101. The commission may reasonably interpret and enforce conditions adopted pursuant to this subsection.

(e) Unless instructed to do so by specific legislative actions and no earlier than January 1, 2017, the commission shall not implement or consider the implementation of retail electric competition in electric control areas within the state that were in the Southwest Power Pool on January 1, 2004, and that are not subject to Subchapter I or Subchapter J.

SECTION 11. Section 39.202, Utilities Code, is amended by adding Subsections (q), (r), and (s) to read as follows:

(q) If a retail electric provider is assessed a charge under Section 39.110, on a schedule to be determined by the commission, the commission shall require the retail electric provider to provide the commission with the names and addresses of the residential customers who have not affirmatively chosen a retail electric provider or electric service plan. The commission shall release the names and addresses of those customers to all retail electric providers licensed by the commission and currently offering residential service. The commission shall provide updated information on the list of names and addresses to remove the customers who have affirmatively made a choice in relation to providers or plans.

(r) The commission may annually conduct a program to assist residential customers who have not affirmatively chosen a retail electric provider or electric service plan to select a competitive retail electric provider or alternative plan from the existing provider.

(s) The commission shall not provide the name and address of a customer as required by Subsection (q) if the customer contacts the commission and requests to have their information removed from the list. Additionally, the commission shall not contact any customer under a program undertaken pursuant to Subsection (r) if the customer has requested that their information be withheld or removed from the list.

SECTION 12. Subchapter E, Chapter 39, Utilities Code, is amended by adding Sections 39.2025 and 39.2026 to read as follows:

Sec. 39.2025. ELECTRICITY RATE REDUCTION. (a) In this section, "residential customers under a price to beat tariff on December 31, 2006" means residential customers of an affiliated retail electric provider who:

(1) were served on December 31, 2006, at the price to beat tariff regardless of whether the tariff was revised under order issued by the commission before December 31, 2006, implementing an agreed settlement;

(2) have not affirmatively chosen an electric service plan after December 31, 2006; and

(3) continue to be served by the affiliated retail electric provider; and

(4) did not receive at least a 10 percent reduction from the price charged on June 30, 2006, prior to June 30, 2007.

(b) A retail electric provider shall reduce the price charged to residential customers under a price to beat tariff on December 31, 2006, by 15 percent from the price tariffed to be charged on June 30, 2006, as follows:

(1) a 10 percent reduction on July 1, 2007; and

(2) up to and including an additional five percent on September 1, 2007, if the commission determines that the additional reduction will not harm retail competition in the affected transmission and distribution utility service territory.

(c) In making the determination in Subsection (b)(2), the commission shall find that retail competition will be harmed if the additional reduction is expected to result in:

(1) a decrease in the number of customers switching to alternative retail electric providers; or

(2) a retail price that is below market prices for comparable service.

(d) The rate reduction given under this subsection may not be considered as a residential customer's affirmative choice of an electric service plan.

Sec. 39.2026. MARKET REVIEW BASED ON PRICE OF ELECTRICITY. (a) The commission may review, as described in Subsection (b), the price of the electric service plan under which customers who took service under a price to beat tariff on December 31, 2006, who have not subsequently chosen an alternate retail electric service plan are served in a transmission and distribution utility service territory if:

(1) at the end of calendar year 2007 the number of such customers exceeds 25 percent of the number of residential customers in the transmission and distribution utility service territory in which such customers take service; or

(2) at the end of calendar year 2008 the number of such customers exceeds 20 percent of the number of residential customers in the transmission and distribution utility service territory in which such customers take service.

(b) If the price charged by a retail electric provider to applicable residential customers is more than two cents per kilowatt hour higher for more than six consecutive months than the simple average of the prices charged for other similar electric service plans in the relevant transmission and distribution utility service territory, the commission may initiate a review of the retail electric provider's price charged to such residential customers. If the commission determines that the retail electric provider's price charged to such customers is not reasonable based on its review, the commission may reduce the retail electric provider's residential price charged to such customers, but not to less than one cent per kilowatt hour higher than

the simple average of the prices charged for other similar electric service plans in the relevant transmission and distribution utility service territory at the time the downward adjustment is required.

(c) The commission may adopt and enforce rules as necessary or appropriate to carry out this section.

(d) This section expires on September 1, 2009.

SECTION 13. Section 39.902, Utilities Code, is amended by amending Subsection (c) and adding Subsection (d) to read as follows:

(c) After the opening of the retail electric market, the commission shall conduct ongoing customer education designed to help customers make informed choices of electric services and retail electric providers. As part of ongoing education, the commission may provide customers information concerning prices available in the marketplace, savings available to customers by switching retail electric providers or service plans, and information concerning specific retail electric providers, including instances of complaints against them and records relating to quality of customer service.

(d) The commission may require a transmission and distribution utility to issue public service announcements that inform customers that service reliability and the restoration of electric service following an outage are not contingent on the customer's receiving service from a particular retail electric provider.

SECTION 14. Section 39.903, Utilities Code, is amended by amending Subsections (a), (e), (j), and (l) and adding Subsection (e-1) to read as follows:

(a) The system benefit fund is an account in the general revenue fund. Money in the account may be appropriated only for the purposes provided by this section [~~or other law~~]. Interest earned on the system benefit fund shall be credited to the fund. Section 403.095, Government Code, does not apply to the system benefit fund.

(e) Money in the system benefit fund may be appropriated only to provide funding [~~solely~~] for the following [~~regulatory~~] purposes, in the following order of priority:

(1) programs to~~±~~

~~[(A)] assist low-income electric customers by providing the 10-20 [40] percent reduced rate prescribed by Subsection (h); [and~~

~~[(B) provide one time bill payment assistance to electric customers who are or who have in their households one or more seriously ill or disabled low income persons and who have been threatened with disconnection for nonpayment;]~~

(2) customer education programs;

(3) [5] administrative expenses incurred by the commission in implementing and administering this chapter, and expenses incurred by the office under this chapter; and

(4) [(3)] programs to assist low-income electric customers by providing the targeted energy efficiency programs described by Subsection (f)(2).

(e-1) Subsection (e)(2) expires on September 1, 2011 [±

~~[(4) programs to assist low income electric customers by providing the 20 percent reduced rate prescribed by Subsection (h); and~~

~~[(5) reimbursement to the commission and the Health and Human Services Commission for expenses incurred in the implementation and administration of an integrated eligibility process created under Section 17.007 for customer service discounts relating to retail electric service, including outreach expenses the commission determines are reasonable and necessary].~~

(j) The commission shall adopt rules providing for methods of enrolling customers eligible to receive reduced rates under Subsection (h). The rules must provide for automatic enrollment as one enrollment option. On [The Texas Department of Human Services, or] request of the commission, each appropriate governmental entity shall assist in the adoption and implementation of these rules. Each assisting governmental entity [The commission and the Texas Department of Human Services] shall enter into a memorandum of understanding with the commission establishing the respective duties of the commission and the entity [department] in relation to the automatic enrollment. Each assisting governmental entity shall supply to the commission any information necessary for the commission to implement automatic enrollment for reduced rates under Subsection (h). The commission shall prepare a report each calendar quarter with information concerning the enrollment of customers eligible for the reduced rates. The commission shall compile the information into an annual report to be published for periodic distribution not later than January 1 of each odd-numbered year. The commission shall send a copy of each annual and quarterly report to each member of the legislature and the electric utility restructuring legislative oversight committee.

(l) For the purposes of this section, a "low-income electric customer" is an electric customer:

(1) whose household income is not more than 125 percent of the federal poverty guidelines; or

(2) who:

(A) receives food stamps from the Health and Human Services Commission [Texas Department of Human Services] or medical assistance from a state agency administering a part of the medical assistance program;

(B) receives federal housing assistance;

(C) has a child enrolled in the national school lunch program for free or reduced-price lunches; or

(D) receives lifeline telephone service.

SECTION 15. The Public Utility Commission of Texas shall adopt rules required by Section 39.903, Utilities Code, as amended by this Act, not later than January 1, 2008.

SECTION 16. 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 482** was again filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 1146**

Senator Janek submitted the following Conference Committee Report:

Austin, Texas  
May 25, 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 1146** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

JANEK  
DUNCAN  
JACKSON  
SELIGER

BONNEN  
BERMAN  
CASTRO  
FLYNN  
HARDCASTLE

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 1146** was filed with the Secretary of the Senate.

**RESOLUTIONS OF RECOGNITION**

The following resolutions were adopted by the Senate:

**Memorial Resolutions**

**SR 1207** by Jackson, In memory of the life of Vernon C. Payne.

**HCR 257** (Hinojosa), Honoring Texans who have died while serving in the Global War on Terrorism and all men and women who have served in the United States armed forces.

**HCR 269** (Eltife), In memory of Elizabeth Robertson Boatner of Mount Pleasant.

**HCR 270** (Eltife), In memory of Ashantay Renee Gray Bouchon of Paris.

**Congratulatory Resolutions**

**SR 1191** by Hegar, Recognizing Fayette Electric Cooperative, Incorporated, on the occasion of its 70th anniversary.

**SR 1193** by Shapleigh, Recognizing Marian Givens-Rollins on the occasion of her retirement from Eastwood Knolls School in El Paso.

**SR 1197** by Lucio, Recognizing Richard Louis Randolph on the occasion of his 92nd birthday.

**SR 1198** by Lucio, Recognizing Cassandra Leigh Boman for her work in the office of Senator Eddie Lucio, Jr.

**SR 1199** by Lucio, Recognizing Thomas D. Garza for his work in the office of Senator Eddie Lucio, Jr.

**SR 1200** by Lucio, Recognizing Carlos Rene Galvan for his work in the office of Senator Eddie Lucio, Jr.

**SR 1201** by Lucio, Congratulating Katharine Ann Stromberg Volti and Baker Christian Harrell on the occasion of their marriage.

**SR 1202** by Lucio, Recognizing Christina Michelle Mechler for her work in the office of Senator Eddie Lucio, Jr.

**SR 1205** by Whitmire, Recognizing Mary Helen Perry of Houston on the occasion of her 90th birthday.

**SR 1209** by Uresti, Recognizing the Department of Texas Marine Corps League on the occasion of its 37th annual convention.

**SR 1210** by Shapiro, Congratulating Zach Gautier for receiving a Time Warner Cable National Teacher Award.

**SR 1211** by Lucio, Recognizing Cynthia Singleton for her work in support of legislation regarding autism.

**SR 1212** by Nichols, Congratulating Kari and Jeff McAdams on the birth of their daughter, Madeline Kay McAdams.

**HCR 109** (Hinojosa), Recognizing Robstown, Texas, as the birthplace of the poker game Texas Hold'em.

**HCR 280** (Eltife), Honoring Dr. Charles Florio of Mt. Pleasant on his retirement as president of Northeast Texas Community College.

### **Official Designation Resolution**

**SR 1192** by Ellis, Recognizing June 23, 2007, as XVI Concurso Dia del Niño.

### **ADJOURNMENT**

On motion of Senator Whitmire, the Senate at 12:46 a.m. Monday, May 28, 2007, adjourned until 11:00 a.m. today.

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### **APPENDIX**

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### **SENT TO GOVERNOR**

May 27, 2007

**SB 74, SB 131, SB 141, SB 363, SB 410, SB 560, SB 617, SB 649, SB 662, SB 714, SB 766, SB 919, SB 924, SB 962, SB 1091, SB 1092, SB 1185, SB 1207, SB 1231, SB 1233, SB 1234, SB 1245, SB 1339, SB 1391, SB 1535, SB 1566, SB 1613, SB 1624, SB 1658, SB 1724, SB 1729, SB 1788, SB 1912, SB 1942, SB 1972, SB 1984, SB 1993, SB 2020, SB 2031, SCR 58**