

SENATE JOURNAL

EIGHTY-FIRST LEGISLATURE — REGULAR SESSION

AUSTIN, TEXAS

PROCEEDINGS

SEVENTY-FIRST DAY

(Monday, June 1, 2009)

The Senate met at 10:44 a.m. pursuant to adjournment and was called to order by the President.

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

The President announced that a quorum of the Senate was present.

The Reverend Christine S. Kenney, Saint David's Medical Center, Austin, offered the invocation as follows:

O God, the fountain of wisdom, whose will is good and gracious and whose law is truth: Guide and bless our Senators assembled that they may enact such laws as shall be for the common good and welfare of the people of Texas. To Senators and Representatives and all those who make our laws in the State of Texas, give courage, wisdom, and foresight to provide for the needs of all Texans. Endow them with understanding and integrity, that human rights may be safeguarded and justice served. This, we pray. Amen.

Senator Whitmire 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.

CO-AUTHORS OF SENATE BILL 22

On motion of Senator Zaffirini, Senators Carona, Hinojosa, Nichols, Ogden, Shapleigh, and West will be shown as Co-authors of **SB 22**.

CO-AUTHOR OF SENATE BILL 144

On motion of Senator Ellis, Senator West will be shown as Co-author of **SB 144**.

CO-AUTHOR OF SENATE BILL 170

On motion of Senator Ellis, Senator Patrick will be shown as Co-author of **SB 170**.

CO-AUTHOR OF SENATE BILL 227

On motion of Senator West, Senator Ellis will be shown as Co-author of **SB 227**.

CO-AUTHOR OF SENATE BILL 242

On motion of Senator Shapleigh, Senator Lucio will be shown as Co-author of **SB 242**.

CO-AUTHOR OF SENATE BILL 243

On motion of Senator Shapleigh, Senator Lucio will be shown as Co-author of **SB 243**.

CO-AUTHOR OF SENATE BILL 244

On motion of Senator Shapleigh, Senator Lucio will be shown as Co-author of **SB 244**.

CO-AUTHOR OF SENATE BILL 248

On motion of Senator Shapleigh, Senator Lucio will be shown as Co-author of **SB 248**.

CO-AUTHORS OF SENATE BILL 258

On motion of Senator Shapleigh, Senators Hinojosa and Nelson will be shown as Co-authors of **SB 258**.

CO-AUTHOR OF SENATE BILL 483

On motion of Senator Seliger, Senator Zaffirini will be shown as Co-author of **SB 483**.

CO-AUTHOR OF SENATE BILL 594

On motion of Senator Van de Putte, Senator Shapleigh will be shown as Co-author of **SB 594**.

CO-AUTHOR OF SENATE BILL 607

On motion of Senator Uresti, Senator Zaffirini will be shown as Co-author of **SB 607**.

CO-AUTHOR OF SENATE BILL 638

On motion of Senator Nichols, Senator Ellis will be shown as Co-author of **SB 638**.

CO-AUTHOR OF SENATE BILL 846

On motion of Senator Averitt, Senator Zaffirini will be shown as Co-author of **SB 846**.

CO-AUTHORS OF SENATE BILL 982

On motion of Senator Van de Putte, Senators Ellis and Estes will be shown as Co-authors of **SB 982**.

CO-AUTHOR OF SENATE BILL 1627

On motion of Senator Wentworth, Senator Huffman will be shown as Co-author of **SB 1627**.

CO-AUTHOR OF SENATE BILL 2131

On motion of Senator Davis, Senator Van de Putte will be shown as Co-author of **SB 2131**.

CO-AUTHOR OF SENATE JOINT RESOLUTION 39

On motion of Senator Averitt, Senator Zaffirini will be shown as Co-author of **SJR 39**.

CO-SPONSOR OF HOUSE BILL 130

On motion of Senator Zaffirini, Senator Van de Putte will be shown as Co-sponsor of **HB 130**.

CO-SPONSOR OF HOUSE BILL 459

On motion of Senator Zaffirini, Senator Uresti will be shown as Co-sponsor of **HB 459**.

CO-SPONSOR OF HOUSE BILL 1041

On motion of Senator West, Senator Uresti will be shown as Co-sponsor of **HB 1041**.

CO-SPONSOR OF HOUSE BILL 1218

On motion of Senator Watson, Senator Uresti will be shown as Co-sponsor of **HB 1218**.

CO-SPONSOR OF HOUSE BILL 1935

On motion of Senator Duncan, Senator Hinojosa will be shown as Co-sponsor of **HB 1935**.

CO-SPONSOR OF HOUSE BILL 2656

On motion of Senator Duncan, Senator Eltife will be shown as Co-sponsor of **HB 2656**.

CO-SPONSOR OF HOUSE BILL 4424

On motion of Senator Gallegos, Senator Uresti will be shown as Co-sponsor of **HB 4424**.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

June 1, 2009

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 3** (143 Yeas, 0 Nays, 2 Present, not voting)
- HB 51** (141 Yeas, 4 Nays, 1 Present, not voting)
- HB 103** (139 Yeas, 5 Nays, 2 Present, not voting)
- HB 171** (146 Yeas, 0 Nays, 2 Present, not voting)
- HB 431** (84 Yeas, 62 Nays, 2 Present, not voting)
- HB 432** (109 Yeas, 36 Nays, 1 Present, not voting)
- HB 459** (140 Yeas, 4 Nays, 2 Present, not voting)
- HB 469** (141 Yeas, 5 Nays, 1 Present, not voting)
- HB 498** (89 Yeas, 56 Nays, 1 Present, not voting)
- HB 635** (143 Yeas, 0 Nays, 2 Present, not voting)
- HB 756** (143 Yeas, 0 Nays, 1 Present, not voting)
- HB 770** (144 Yeas, 0 Nays, 1 Present, not voting)
- HB 963** (145 Yeas, 0 Nays, 2 Present, not voting)
- HB 1218** (140 Yeas, 0 Nays, 1 Present, not voting)
- HB 1322** (146 Yeas, 0 Nays, 1 Present, not voting)
- HB 1343** (145 Yeas, 0 Nays, 1 Present, not voting)
- HB 1795** (134 Yeas, 8 Nays, 2 Present, not voting)
- HB 1796** (143 Yeas, 0 Nays, 1 Present, not voting)
- HB 1831** (141 Yeas, 0 Nays, 1 Present, not voting)
- HB 1924** (145 Yeas, 0 Nays, 1 Present, not voting)
- HB 1935** (84 Yeas, 52 Nays, 2 Present, not voting)
- HB 2000** (142 Yeas, 0 Nays, 1 Present, not voting)
- HB 2003** (146 Yeas, 0 Nays, 1 Present, not voting)
- HB 2012** (135 Yeas, 2 Nays, 2 Present, not voting)
- HB 2093** (142 Yeas, 0 Nays, 1 Present, not voting)
- HB 2163** (147 Yeas, 0 Nays, 1 Present, not voting)
- HB 2169** (145 Yeas, 0 Nays, 1 Present, not voting)
- HB 2347** (135 Yeas, 4 Nays, 1 Present, not voting)
- HB 2374** (83 Yeas, 59 Nays, 1 Present, not voting)
- HB 2521** (143 Yeas, 0 Nays, 1 Present, not voting)
- HB 2531** (142 Yeas, 0 Nays, 1 Present, not voting)
- HB 2553** (145 Yeas, 0 Nays, 1 Present, not voting)

HB 2682 (141 Yeas, 1 Nays, 1 Present, not voting)
HB 2774 (144 Yeas, 0 Nays, 1 Present, not voting)
HB 2888 (83 Yeas, 60 Nays, 1 Present, not voting)
HB 2919 (134 Yeas, 5 Nays, 1 Present, not voting)
HB 3076 (103 Yeas, 37 Nays, 2 Present, not voting)
HB 3221 (142 Yeas, 0 Nays, 1 Present, not voting)
HB 3224 (146 Yeas, 0 Nays, 1 Present, not voting)
HB 3347 (145 Yeas, 0 Nays, 2 Present, not voting)
HB 3389 (144 Yeas, 0 Nays, 1 Present, not voting)
HB 3452 (145 Yeas, 0 Nays, 1 Present, not voting)
HB 3461 (143 Yeas, 1 Nays, 1 Present, not voting)
HB 3479 (143 Yeas, 0 Nays, 1 Present, not voting)
HB 3612 (135 Yeas, 0 Nays, 3 Present, not voting)
HB 3621 (143 Yeas, 1 Nays, 1 Present, not voting)
HB 3646 (146 Yeas, 0 Nays, 1 Present, not voting)
HB 3653 (141 Yeas, 0 Nays, 1 Present, not voting)
HB 3676 (146 Yeas, 0 Nays, 1 Present, not voting)
HB 3689 (147 Yeas, 0 Nays, 1 Present, not voting)
HB 3872 (147 Yeas, 0 Nays, 1 Present, not voting)
HB 3983 (125 Yeas, 21 Nays, 1 Present, not voting)
HB 4009 (143 Yeas, 0 Nays, 1 Present, not voting)
HB 4102 (143 Yeas, 0 Nays, 1 Present, not voting)
HB 4244 (146 Yeas, 0 Nays, 1 Present, not voting)
HB 4409 (147 Yeas, 0 Nays, 1 Present, not voting)
HB 4424 (144 Yeas, 0 Nays, 1 Present, not voting)
HB 4583 (144 Yeas, 0 Nays, 1 Present, not voting)
HB 4833 (144 Yeas, 0 Nays, 1 Present, not voting)
HJR 14 (146 Yeas, 0 Nays, 1 Present, not voting)
SB 78 (135 Yeas, 8 Nays, 1 Present, not voting)
SB 313 (144 Yeas, 0 Nays, 1 Present, not voting)
SB 379 (138 Yeas, 0 Nays, 2 Present, not voting)
SB 408 (146 Yeas, 0 Nays, 2 Present, not voting)
SB 537 (144 Yeas, 0 Nays, 1 Present, not voting)
SB 686 (138 Yeas, 0 Nays, 1 Present, not voting)

SB 726 (144 Yeas, 0 Nays, 1 Present, not voting)
SB 968 (124 Yeas, 21 Nays, 1 Present, not voting)
SB 1011 (143 Yeas, 2 Nays, 1 Present, not voting)
SB 1449 (143 Yeas, 0 Nays, 2 Present, not voting)
SB 1495 (145 Yeas, 0 Nays, 1 Present, not voting)
SB 1645 (141 Yeas, 0 Nays, 1 Present, not voting)
SB 1742 (140 Yeas, 4 Nays, 2 Present, not voting)
SB 1759 (135 Yeas, 9 Nays, 1 Present, not voting)
SB 1970 (141 Yeas, 0 Nays, 2 Present, not voting)
SB 2442 (145 Yeas, 0 Nays, 2 Present, not voting)

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

ELECTION OF PRESIDENT PRO TEMPORE AD INTERIM EIGHTY-FIRST LEGISLATURE

The President announced that the time had arrived for the election of President Pro Tempore Ad Interim of the 81st Legislature.

Senator Shapiro placed in nomination the name of Senator Troy Fraser, District 24, for the office of President Pro Tempore Ad Interim of the 81st Legislature.

On motion of Senator Whitmire and by unanimous consent, the nominating speech and the seconding speeches were ordered reduced to writing and printed in the *Senate Journal* as follows:

Senator Shapiro: Mr. President and Members, it is an honor for me today to rise to nominate our colleague and our friend, Troy Fraser, as President Pro Tempore Ad Interim of the Texas Senate. Troy and I have actually been friends since he entered this body in 1996. We won't talk about the 1992 election, since you didn't come in with the rest of us, but we were waiting your arrival, and came in 1996. He's a friend to all of us, especially his grandchildren, as you can see, and we are all very pleased and honored that we are able to do this for Senator Fraser today. After all, who's not Troy Fraser's friend? He is a happy, cheerful, and playful individual who at all times makes your life happy and playful to be around him. Every day of his life, I don't know that there's anyone on this floor that has ever seen Troy Fraser in a bad mood, except maybe Linda, the love of his life. And I mean that very sincerely. There is an adoration between the two of them that I only wish all of us in our lifetime could share that kind of love and affection for one another. It is a beautiful thing to behold. Linda is his wife of 40 years this last week. So, we are celebrating a milestone in their life as well and happy to do that. She has been the love of his life for a very, very long time, and it's a wonderful thing to watch. Right now, you see Troy Fraser sitting in his chair. This is a very unusual sight for most of us, especially for me, as I sit next to him each and every day. One often believes that when he's not in his chair that he's

out at a round of golf, even if it's just a couple of holes that he gets in. But maybe not so, maybe he's not, maybe he's actually up and about standing idly around waiting for the next bill to come up, trying to decide if he needs to be one of the blockers, which he does so often. You could usually count on Troy to block just about any bill. If you ask him to, he'll usually say, yes. Except one time, I remember it very well, and did I mention that Troy loves to play golf? If I didn't, I will be mentioning it quite a lot before I finish. One time we were looking for Troy around the floor, I mean, fervently looking. We called the office, we called the cell phone, we couldn't find Troy Fraser, and we needed him to block a bill. Well, Johnny on the spot, here comes Troy. Janice, remember that day? Here comes Troy running in. I thought, my goodness, he's overslept, something's happened. It's about 12:15, actually they said he'll be here at 12:00, and let me tell you, friends, we knew exactly where Troy had been, his hair was golf-hair wet. He had just taken a shower, he had just been out on the golf course, there was absolutely no doubt, no doubt where he had been. I must tell you though, it has not been that often, I haven't seen him as often as I did in the past, but golf is certainly a passion of his. Troy is a very adventurous soul. He and Linda have never met an adventure that they didn't want to try. He is a pilot, he travels around the world, he skis, he hikes, he explores. Did I mention he plays golf? Is there a golf course in this country that Troy Fraser has not played? I doubt it seriously. But what Troy loves most is family. Poppy, as he is called, is happiest when he's got all of his little ones around him, his children and his little babies. Most of you know all of his children. Unfortunately, Tina couldn't be here today, but I will mention each of them. Of course, we have Sunny and her husband, Craig, and Davis and Connor. And then we have Andrew, everybody knows Andrew. And we have Chase and, unfortunately, Tina couldn't be here and Quinn couldn't be here, but precious Chloe is here today. And she is one little precious girl, and now we know why Poppy is so proud of this wonderful, wonderful family. I do think that there is very little title that he loves less, more, he doesn't love any title more. Golfer, for sure, but Poppy and husband and father are probably the ones that he holds nearest and dearest to his heart. Troy loves to play, but Troy also works hard. Troy works as hard as he plays, and he views every single issue that he takes on with the same gusto as he tackles his life and his fun. The subject matter may change—workers' comp, electricity, telecommunications, insurance—but his depth of knowledge into each of these and his sincere desire to make a difference in each of these fronts is what makes Troy Fraser so special to all of us. He does it with gusto, just like he does other things. I do have one concern, Mr. President, and it's the only thing that I see as a potential problem for having him as the President Pro Tempore of the Texas Senate. You know, one of the major things we do is when the Governor and the Lieutenant Governor are out of the state, we have the President Pro Tem become the Governor. I can just see it now, that phone call to the Fraser home. Okay, the Governor and the Lieutenant Governor are out of town, you're in charge. Where is he? We can't find him. He's in Switzerland. He's in France. No, he's out on the golf course. There could be a real problem in this situation. I hope you take this job very, very seriously. Did I mention to you that he loves golf? I don't want anybody to forget how he loves golf. I know that he loves golf when you ask him if he's been out on the golf course and he tells you, yes, I only played 54 holes yesterday. Fifty-four holes, I'm tired after three, he's playing 54.

There's no project, no concept that is foreign to our friend Troy Fraser. He is a one of a kind. He is a man with so many attributes and so many capabilities. Texas has been better served with Troy Fraser in office, and this body will be very well served with Troy Fraser as our President Pro Tempore Ad Interim. You do a great job, Troy, and we're very proud of you, and I know your family is sitting here with great pride as well. So, it is my honor to nominate you today.

Senator Zaffirini: Mr. President and Members, what an honor, what a joy, what a privilege to rise to second the nomination of our friend and colleague, Troy Fraser, to be our President Pro Tempore Ad Interim. When I think of Troy I think of his many sterling virtues, but more than anything, Troy, I cannot think of you without also thinking of your family and most especially, your loving wife, your beloved wife, Linda. She always reminds me of the words attributed to the King of Massa who said, a wife of noble character is worth far more than rubies, her husband has full confidence in her, it lacks for nothing of value. Such a wife is Linda. And I know that together you instill your home with love and joy, with peace and harmony, with health and happiness, and with much prayer. And, Members, if you don't know them well, you know that these two together, this beautiful and loving partnership create that foundation from which Troy Fraser excels in this body. As a Democrat, I think of Troy Fraser as a very conservative Republican who is true to his party and true to his philosophy but reaches across party lines so effectively to do what is best for his district and for our great state. As a woman, I think of him as a gentleman who is equally comfortable with men and with women, with Democrats and with Republicans. Just notice, Members, who nominated him today, a Republican woman. Who will second his nomination today? Two men and two women, two Democrats and two Republicans, and that choice reflects the character of our friend, Troy Fraser. As a Senator, I am so impressed with his many accomplishments, but as someone who is not a member of the Senate Committee on Business and Commerce that he chairs, I am grateful that he is always so accommodating to us, respectful of our time and sharing, that if we cannot be there because we are at another committee, that our bills are heard, and treating us with the same dignity and respect with which he treats our witnesses, and, Senator Fraser, for that we are so grateful. Visitors to this body always notice Troy Fraser, even though he sits with us in the back row. He is always elegant, always impeccably fashionable, and a member of the tall caucus. He stands tall for his district, and he stands tall for Texas. His success is known not only statewide but even at the national level. He has been recognized by the national homebuilders as the top state official of the year. He has been recognized by the American Legislative Exchange Council as the top legislator in the nation. What an honor, what a well deserved tribute to your leadership. I know that all of us who know him and who love him are delighted that he will be our President Pro Tempore during the interim because those of us, like Senator Duncan, who served as President Pro Tem during the session, know that the Governor and Lieutenant Governor are never out of state during session, but during the interim, Senator Carona knows they often are. And that is when you will step in, my friend, and I know that you will excel during that interim. And we who celebrate you today are delighted that Senator Duncan's legislation that would have given the Governor continued authority out of state died a quiet death in the House of Representatives, and I'm sure your family will celebrate it most. Today,

as we celebrate you, Troy, we also celebrate your family and especially your wife, but she of noble character has a husband of equally noble character. And, today, you celebrate with your family and with us, and we honor you for your leadership and for your friendship and look for the brightest future of all as you serve us as our President Pro Tempore. Mr. President and Members, I am proud to second the nomination of Troy Fraser as President Pro Tempore Ad Interim of the Texas Senate. May God bless you, Troy.

Senator Nelson: Mr. President and Members, I, too, rise to enthusiastically second the nomination of Senator Troy Fraser as our President Pro Tempore Ad Interim. He is already our leader on many important issues, and I think that he will be an excellent choice to serve as our Pro Tem leader. Now, Troy Fraser has one of those geographically expansive districts. Senator Fraser represents a district that stretches from Abilene to Stephenville to Temple to Kerrville, and it contains two key military installations, Fort Hood and Dyess Air Force Bases. It includes 21 counties, and, Senator Fraser, we've talked about this before, but four of those counties I represented in my first session, and I still keep up with some of those constituents, and they tell me that he really does a wonderful job of communicating with them and representing them. He cares about his constituents, he cares about their safety, he cares about their health, he cares about the education of their children and their grandchildren. And speaking of children and grandchildren, all of us will mention Troy's family, because I don't think there's anything more important to Troy Fraser than his family. He has them with us and with him here today to celebrate, and it's so wonderful to see when Senators bring their families into this Chamber. Your family is our family, and it's wonderful to see them here today and give us grandmothers a little fix of grandchildren. He is a wonderful husband, he's a great dad to his children, and absolutely a wonderful grandfather to those grandchildren. Members, I know you all know, but any time we walk past his desk over there, when he has his computer up, there're always pictures of those grandchildren floating around the screen and Senator Fraser always has a story to share with us, and he has bragging rights to those new grandbabies that are born, and it is wonderful to see how much he cares about those grandbabies. Now, Senator Fraser is also a successful businessman, and I'm going to talk about that for a minute. He is the founder and former chief development officer of Pal-Ex, Incorporated, an international, publicly traded company. Pal-Ex's predecessor, Fraser Industries, began as a small backyard operation in West Texas, and it expanded to become one of this nation's largest manufacturers and recyclers of wooden pallets. That business experience serves his district well and serves our Chamber well. When Senator Fraser comes to this Chamber and talks about the impact that this Legislature's actions will have on Texas businesses, Senator Fraser doesn't have to theorize, he's been there. He knows what it means to cut a paycheck, he knows what it means to meet a payroll, to deal with government regulations, and has seen the impact of rising costs on our businesses and our employees. Not only that, he understands that for Texas to have good jobs and economic success, Texas has to have a healthy business climate. Right now, we know that many Texas employers are struggling to stay afloat, and in these difficult times as a businessperson, as a Senator, I am so happy to have Senator Troy Fraser chairing the Senate's Business and Commerce Committee. Chairman Fraser, I know you've worked very hard this session on many

important issues, several of them have been mentioned, as you're working on these issues, I know that you see the people behind those businesses. I know that the people who depend on the success of their business to earn a living and take care of their families and take care of their employees, you understand, and we are so grateful for that aspect that you bring to this Texas Senate. I thank you for your leadership, you've taken a real leadership role on reforms in telecommunication, electric deregulation, renewable energy, the insurance industry, I could go on and on. I thank you, Senator, for your service. I thank your family for sharing you with us and with the State of Texas, and I very proudly second your nomination to serve as our President Pro Tempore Ad Interim of the Texas Senate.

Senator Jackson: Mr. President and Members, it's an honor for me today to speak on behalf of Senator Troy Fraser, as Senator Nelson was relating to, a businessman. He's a leader and my good friend, and he works tirelessly on behalf of his constituents. And I think most everyone in this Chamber would agree that he is a good listener. Well, maybe with one exception, maybe Senator Davis, but it's a good quality to have. And being named President Pro Tempore Ad Interim of the Senate is an honor bestowed upon him for all he has done for our great state, and I'm certainly glad to see his family here, that we've known each other for years. They say behind every good man is a good woman, and for Senator Fraser, we all know he married way over his head. And with Linda, and the good Lord above knows all the things that you've had to put up with over these past 20 or so years, and with Sunny and Chase and Andrew and your beautiful families to see, from when we started out and where you all are now, is just, I'm just elated to see, and how you're doing now and, you know, with your beautiful kids and where you are, it's just an amazing thing. Troy has deep roots in Texas. He's born in Abilene, raised in Coahoma, went to school in San Angelo and Arlington, represented Big Spring in the Texas House of Representatives years back, and now lives in Horseshoe Bay. If I didn't know any better, I'd say he's moving around just enough to position himself for a statewide race coming up here, but, well, I guess time will tell on that. Troy and I were freshmen in the House, as a matter of fact, there're three Members of the Texas Senate today who were freshman classmates in the Texas House of Representatives in 1989. One of them is Senator Jeff Wentworth. Senator Troy Fraser and myself came into the Texas House at that time, and if you can believe this, we had seven special sessions after the regular session, and the two biggest issues were school finance and workers' compensation. It seems like they just keep coming back and back. There were four state reps at that time, and this was before Bergstrom was the airport here, it was the Mueller Airport that had airplanes, and we would commute back and forth, and when we got off on Thursday afternoon, we'd all race to the airport to see who could get their airplane out of the hanger quick enough and beat the other one out of there. Troy was one of them, I was one of them, there was a guy named Rick Perry that was a state rep at that time, and another guy named David Counts. And if you look today, it's amazing to see where everybody's gone. We had a great time and great memories in those sessions and came back after '89. We were kind of a long shot to get elected and made it, served in '91, then went through this process called redistricting. Troy was paired with a Democratic Member in a pretty much Democratic district. I was paired with a longstanding Republican incumbent in a Republican district. I made it

back, Troy didn't, unfortunately, or maybe fortunately, because he went on from there to take a huge pile of scrap lumber and turn it into a very successful pallet business and made beaucoup of money while I stayed here and worked for about a dollar an hour. Go figure. So, in '96 though, the moon and the stars and the planets aligned, and Troy ran for the Texas Senate and won and rejoined the Capitol family up here. And after I saw that Troy did that, I figured I could do it too, so two years later I came over here. But, in all honesty, Senator Fraser's helped craft some of our state's most complex issues, important legislation, as mentioned before, electricity, telecommunications, insurance. But one that he probably, people don't talk about that much, that I was particularly impressed with was the depth of effort and knowledge that he put into rock crushers. If you remember a couple of sessions back, I think Troy Fraser was the premier Member who, and knew more about rock crushers than any other Member of the Legislature. His effort in perfecting public policy is only exceeded by his efforts to perfect his short game on the golf course. He routinely violates the 14-club rule, and Members that play golf know that you're only allowed, there is a 14-club rule in golf. Troy violates it every day, because he is a member of more than 14 country clubs at the same time. And I would say that if Troy could keep his staffers from hitting him in the head with golf balls when they're playing every once in a while, his game would almost be perfect. Senator Fraser and I have had the pleasure of working very closely together this session, not only do we sit very close together on the Senate floor but we also serve on the Business and Commerce Committee, which he chairs, the Natural Resources Committee, the State Affairs Committee, and we're there sitting in close proximity all the time. I chair the Nominations Committee, and I have to say it is a breath of fresh air to just be away from him on Wednesday afternoon when we meet. Senator Fraser, you're truly a great husband, a great father, a great grandfather, and a leader. I'm happy to be just a small part of the ceremony here today that I can say you're so deserving of. I look forward to watching you to continue to serve your constituents as we move forward and pass the session that we're in today. We've had one heck of a session this time. And it's really an honor and it makes me proud, Mr. President, to second the nomination of Senator Troy Fraser for President Pro Tempore Ad Interim.

Senator Whitmire: Mr. President, Members. Senator Jackson, I was going to remind Senator Zaffirini that we all know Senator Fraser has a hard time hearing women, and for that reason, after the conclusion of this program, I'm going to move that we reduce the remarks of everyone, be reduced to writing and placed in the journal. But I've also learned from Linda that's very, kind of selective when he has difficulty. Obviously, this is a special event for those of us who have been President Pro Tem and Governor for the Day, know how special it is to be nominated and recognized by your colleagues and to have this special occasion with you and your family. Actually, Troy needs no introduction, we all recall we spent 36 hours with him the second day of the session and, as much as some of us opposed his legislation, to Troy's credit, and I would publicly thank him today, never allowed that to become personal. You kept the fine tradition of this body to disagree without being disagreeable. You might want to recommend a few of our colleagues have a refresher course based on the last 24 hours, but, certainly, Troy kept us focused on the issue, and he used some humor and never became antagonistic about that. When I think of Troy, also, I think about

electricity. You know he and I share a suite of offices, and through his hard work and his review of two years ago, Texas utilities and this year Pedernales Co-op, I got to meet most of the utility officials of the state. Some I wanted to, some I didn't. But I can't imagine what group is on his radar screen for next session, but I'm sure, Troy, you've got many concerns where you'll focus your review and oversight of those important industries. Speaking of our offices in our suite, there's definitely a lighter side of Troy. Last session after about the third or fourth day of my office smelling like onions for the rest of the day after his staff would have lunch and, you know, it just stinks up the whole suite at that end, so I finally went in there, and he wasn't in. And I normally wouldn't talk to staff about a problem with a Senator, but I was tired of it. So I went in and asked his staff, would they please consider having something brought in that didn't involve onions, just give me a one-day break. Well, they did. The next day I found a sack of onions in my chair in my Senate office. Troy has a sense of humor. I would mention that that sack of onions ended up in his desk on the Senate floor the next day. Payback's hell. Speaking of golf, obviously, that is a focus of his life, it's a pleasure. What you need to know also is if you ever play with him, be patient because Troy has a habit and a practice that I tell him he actually needs a little counseling for. He spends all his time in the rough looking for lost balls. I mean, we'll be going forward, you can be having a great game, but he will mess up the rhythm and everyone's timing because he goes off and looks for balls. It's a purpose in his life, and to his tribute, and I want everyone to know he regularly gives thousands, and several hundred sacks of golf balls to youth groups in his district, high schools, and others who cannot afford the golf balls. He's also asked me, he turns 60 in August, he's trying to convince me, three days later, I turn 60, for the last several years Troy plays the number of holes in which he's celebrating his birthday that day. So, I'm going to try, Troy, I don't know why you want me to do 60 in August, but if you're going to convince me it's my 60th birthday, we'll play that day. Finally, when you think of Troy, you have to think about family. Troy's been married to Linda for 40 years, which is twice the number of years that they haven't been married. And it is so fun to be with them at a social gathering, because I can't even figure out really who's the boss, who's in charge, not that someone has to be, but they seem to be such equals in their relationship, and it's so much fun to watch them. In fact, after 40 years you'd think they're still out on a date and having a great time. And so, it's always a pleasure to be with Linda and Troy either playing golf or just traveling. And they always know that their family's very close and nearby, they oftentimes will have their grown children and grandkids with them. I can second this nomination because I know we will be in good hands, Members, because Troy loves this body, and he respects this institution. And, Florence, I know he'll take it very seriously and do a great job, and for that reason I'm proud to second his nomination, Mr. President.

Senator Fraser was elected President Pro Tempore Ad Interim by a rising vote of the Senate.

The President appointed the following committee to escort Senator Fraser and his family to the President's Rostrum: Senators Van de Putte, Duncan, Lucio, Ogden, and Harris.

Senator Fraser and his party were then escorted to the President's Rostrum by the committee.

OATH OF OFFICE ADMINISTERED

The President administered the Oath of Office to Senator Fraser as follows:

I, Troy Fraser, do solemnly swear, that I will faithfully execute the duties of the office of President Pro Tempore Ad Interim of the Senate of the State of Texas, and will to the best of my ability preserve, protect, and defend the Constitution and laws of the United States and of this state, so help me God.

ADDRESS BY PRESIDENT PRO TEMPORE AD INTERIM

President Pro Tempore Ad Interim Fraser addressed the Senate as follows:

To my bride of 40 years, thank you, dear. Not quite as tall as the tall guy. Governor Dewhurst, elected officials and colleagues, family and friends, thank you so much for not only this wonderful day but the wonderful comments that were made and have been said today. As I was sitting back there listening to the remarks, and I was struck by a quote by Anthony Robbins, who said the quality of life is a quality of your relationships. And as I stand here today surrounded by my family, my friends, my colleagues, I stand here awed by each of these relationships that have impacted my life. I have to say that this day is somewhat bittersweet. Even though I'm extremely proud to stand here today with my family and my friends, I am sad that my parents couldn't be with me here today. I'm sure that as they lived through the Depression, out working in the cotton fields near Abilene, that they never could've dreamed that one of their sons would be standing here today as the President Pro Tempore Ad Interim of the Texas Senate. My parents were truly the embodiment of the American Dream. Even though neither parent had a high school education, my dad worked three jobs to make sure that his children, the grandchildren, and his great-grandchildren, were afforded the educational opportunities and opportunities in life that he and my mother didn't have. As all of you know that none of us in public life can succeed without the backing of the family. I was lucky enough to find my soul mate at the ripe old age of 19. Linda and I were able to grow up and build our life together. And I think the nicest compliment that I can ever say of anything that is, someone commented that when you meet Linda, every day is Christmas. And that's her, the way she looks at life. All of us are very aware of the sacrifices that their family and our kids make. Chase and Sunny and Andrew were kids when I first started this adventure. When I first was approached to run for the Texas House, interestingly, Linda was the one that came into my office to close the deal. And the comment she made to me was, I'll take care of the family, you go take care of the state, and that's been her attitude throughout my career. I owe so much to Linda for the wonderful job she's done with my children and the support she's given me through the years. I want to acknowledge my two newest members of the family, is my son-in-law, Craig Knocke, and

my daughter-in-law, Dr. Tina Fraser, that Tina can't be here today. But I think if you haven't noticed the center of the universe is always where my four grandchildren are standing, is that Chloe is five. So, Chloe, where are you, girl? Chloe's five. Quinn is three, that unfortunately can't be here today. Davis is two. And Connor that's in the back, back here is four months old. Last Sunday, as was said, Linda and I celebrated our 40th anniversary, and being able to be there with the children, grandchildren, and 90 of our friends through that 40-year period was really pretty amazing, and it again reflected on the value of the relationships we've developed. I'm going to thank all of you for allowing me to develop the relationships that I have with each of you. As Robert Duncan said when he was sworn in, I truly believe that this is the greatest institution and the most deliberative body in the world. Throughout the years when we've all come to understand that our relationships with each other are much bigger than any single issue, and I think this year was a classic example of that, even in times of disagreement, we always are able to work together to move forward for the good of the great state. Brian Tracy says, the glue that holds all relationships together, including the relationship between the leader and the led, is trust, and trust is based on integrity. As a longtime Rotary member, and I've always lived under the motto of service above self, every one of you have sacrificed things in your life to be here today, whether it's time with your family or our jobs. Albert Schweitzer summed up my thoughts when he said, you must give time to your fellowman, even if it's just a little thing, do something for others. I would be remiss today that if I didn't mention my staff, I've been blessed through the years with a lot of really good people that, some are not working with me today but are still around the Capitol. Janice McCoy, I still have, I almost called her Janice Steffes, that's about to be the mother of twins in about two or three weeks, made it through the session. Thank you for your service. Dan Madru, that runs my Committee, we got the rest of the Committee staff back here, and I've been blessed throughout the year to have a great staff. Members, we accomplished a great deal this session. I want to thank all of you for your hard work for the people of your districts. Our individual successes also turn out to be our collective success. I think we should take great pride that we have managed to do what we will continue to do during the interim as we study and prepare for the next session. I look forward to continuing to work with each of you and making Texas a better state. It has been a great privilege for me through the years, the last 20 years, to work with all of you. And as we head back to our districts to be with our families, friends, and neighbors, I will continue to keep all of you in my prayers. May God bless all of you, and may God bless this great state we call Texas.

VIDEO RELEASE POLICY WAIVED

On motion of Senator Whitmire and by unanimous consent, the Senate policy that governs the release of recordings of the Senate proceedings was waived in order to grant the request of Senator Fraser for a DVD of today's session.

RECESS

On motion of Senator Whitmire, the Senate at 11:33 a.m. recessed until 2:00 p.m. today.

AFTER RECESS

The Senate met at 2:24 p.m. and was called to order by Senator Fraser.

SENATE RESOLUTION 1116**(Caucus Report)**

Senator Whitmire offered the following resolution:

BE IT RESOLVED BY THE SENATE OF THE STATE OF TEXAS:

SECTION 1. CAUCUS REPORT. At a caucus held on June 1, 2009, and attended by 31 members of the senate, the caucus made the recommendations for the operation of the senate contained in this resolution.

SECTION 2. EMPLOYEES. (a) The lieutenant governor may employ the employees necessary for the operation of the office of the lieutenant governor from the closing of this session and until the convening of the next session. The lieutenant governor and the secretary of the senate shall be furnished postage, telegraph, telephone, express, and all other expenses incident to their respective offices.

(b) The secretary of the senate is the chief executive administrator and shall be retained during the interval between adjournment of this session and the convening of the next session of the legislature. The secretary of the senate may employ the employees necessary for the operation of the senate and to perform duties as may be required in connection with the business of the state from the closing of this session and until the convening of the next session.

(c) Each senator may employ secretarial and other office staff for the senator's office.

(d) The chairman of the administration committee is authorized to retain a sufficient number of staff employees to conclude the work of the enrolling clerk, calendar clerk, journal clerk, and sergeant-at-arms. The administration committee shall establish the salaries for the senate staff.

SECTION 3. SENATE OFFICERS. (a) The following elected officers of the 81st Legislature shall serve for the interval between adjournment of this session and the convening of the next session of the legislature:

- (1) Secretary of the Senate—Patsy Spaw;
- (2) Calendar Clerk—Mardi Alexander;
- (3) Doorkeeper—Austin Osborn;
- (4) Enrolling Clerk—Linda Tubbs;
- (5) Journal Clerk—Dianne Arrington; and
- (6) Sergeant-at-Arms—Rick DeLeon.

(b) All employees and elected officers of the senate shall operate under the direct supervision of the secretary of the senate during the interim.

(c) Elected officers named in this section serve at the will of the senate.

(d) The parliamentarian, Karina Davis, shall serve for the interval between adjournment of this session and the convening of the next session of the legislature at the will of the lieutenant governor, and is recognized as having served as the assistant parliamentarian during the 78th Legislature.

SECTION 4. DUTIES OF CHAIRMAN OF ADMINISTRATION COMMITTEE. (a) The chairman of the administration committee shall place the senate chamber in order and purchase supplies and make all necessary repairs and improvements between the adjournment of this session and the convening of the next session of the legislature.

(b) The chairman shall make an inventory of all furniture and fixtures in the senate chamber and in the private offices of the members, as well as of the supplies and equipment on hand in the purchasing and supply department and shall close the books for the Regular Session of the 81st Legislature.

(c) The chairman shall not acquire any equipment on a rental/purchase plan unless the equipment is placed on the senate inventory at the termination of the plan.

(d) The chairman shall examine records and accounts payable out of the contingent expense fund as necessary to approve all claims and accounts against the senate, and no claim or account shall be paid without the consent and approval of the chairman.

(e) The chairman and any member of the administration committee shall be entitled to receive actual and necessary expenses incurred during the interim.

(f) In addition to the duties of the administration committee expressly imposed by this resolution, the committee shall take actions necessary to ensure that the administrative operations of the senate comply with applicable law and are conducted effectively and efficiently.

SECTION 5. JOURNAL. (a) The secretary of the senate shall have 325 volumes of the Senate Journal of the Regular Session of the 81st Legislature printed. Two hundred and fifty copies shall be bound in buckram and delivered to the secretary of the senate who shall forward one volume to each member of the senate, the lieutenant governor, and each member of the house of representatives on request.

(b) The printing of the journals shall be done in accordance with the provisions of this resolution under the supervision of the chairman of the administration committee. The chairman shall refuse to receive or receipt for the journals until corrected and published in accordance with the preexisting law as finally approved by the chairman of the administration committee. When the accounts have been certified by the chairman of the administration committee, the accounts shall be paid out of the contingent expense fund of the 81st Legislature.

SECTION 6. PAYMENT OF SALARIES AND EXPENSES. (a) Salaries and expenses authorized by this resolution shall be paid out of the per diem and contingent expense fund of the 81st Legislature as provided by this section.

(b) The senate shall request the comptroller of public accounts to issue general revenue warrants for:

(1) payment of the employees of the lieutenant governor's office, the lieutenant governor, members of the senate, employees of the senate committees, and employees of the senate, except as provided by Subchapter H, Chapter 660, Government Code, upon presentation of the payroll account signed by the chairman of the administration committee and the secretary of the senate; and

(2) the payment of materials, supplies, and expenses of the senate, including travel expenses for members and employees, upon vouchers signed by the chairman of the administration committee and the secretary of the senate.

SECTION 7. EXPENSE REIMBURSEMENT AND PER DIEM. (a) In furtherance of the legislative duties and responsibilities of the senate, the administration committee shall charge to the individual member's office budget:

(1) the reimbursement of all actual expenses incurred by the members when traveling in performance of legislative duties and responsibilities or incident to those duties; and

(2) the payment of all other reasonable and necessary expenses for the operation of the office of the individual senator during any period the legislature is not in session. Expenditures for these services by the administration committee are authorized as an expense of the senate and shall not be restricted to Austin but may be incurred in individual senatorial districts. Such expenses shall be paid from funds appropriated for the use of the senate on vouchers approved by the chairman of the administration committee and the secretary of the senate in accordance with regulations governing such expenditures.

(b) Each senator shall be permitted a payroll of \$37,500 per month to employ secretarial and other office staff and for intrastate travel expenses for staff employees. This payroll amount accrues on the first day of the month and may not be expended prior to the month in which it accrues, but any unexpended portion for a month may be carried forward from month to month until the end of the fiscal year. Other expenses, including travel expenses or other reasonable and necessary expenses incurred in the furtherance and performance of legislative duties or in operation of the member's office or incident thereto, shall be provided in addition to the maximum salary authorized.

(c) The secretary of the senate may order reimbursement for legislative expenses consistent with this resolution and the establishment by the Texas Ethics Commission of per diem rates.

(d) Any member of the senate and the lieutenant governor are eligible to receive such reimbursement on application of the member or the lieutenant governor to the secretary of the senate.

(e) On the application of a member of the senate or the lieutenant governor, the applicant shall be entitled to reimbursement for legislative expenses for each legislative day.

(f) For purposes of this section, a legislative day includes each day of a regular or special session of the legislature, including any day the legislature is not in session for a period of four consecutive days or less, and all days the legislature is not in session if the senator or lieutenant governor attends a meeting of a joint, special, or legislative committee as evidenced by the official record of the body, and each day, limited to 12 days per month for non-chairs or 16 days per month for chairs and the

lieutenant governor, the senator or the lieutenant governor, including those living within a 50-mile radius, is otherwise engaged in legislative business as evidenced by claims submitted to the chairman of the administration committee.

SECTION 8. MEMBER'S EMPLOYEE LEAVE POLICY. (a) An employee of a senator accrues vacation leave, compensatory leave, or sick leave in accordance with policies adopted by the senator consistent with the requirements of this section.

(b) An employee may accrue vacation leave, compensatory leave, or sick leave only if the employee files a monthly time record with the senate human resources office. Time records are due not later than the 10th day of the following month.

(c) Compensatory time must be used not later than the last day of the 12th month following the month in which the time was accrued.

(d) An employee is not entitled to compensation for accrued but unused compensatory time.

SECTION 9. DESIGNATION FOR ATTENDANCE AT MEETINGS AND FUNCTIONS. (a) The lieutenant governor may appoint any member of the senate, the secretary of the senate, or any other senate employee to attend meetings of the National Conference of State Legislatures and other similar meetings. Necessary and actual expenses are authorized upon the approval of the chairman of the administration committee and the secretary of the senate.

(b) The lieutenant governor may designate a member of the senate to represent the senate at ceremonies and ceremonial functions. The necessary expenses of the senator and necessary staff for this purpose shall be paid pursuant to a budget approved by the administration committee.

SECTION 10. MEETINGS DURING INTERIM. (a) Each of the standing committees and subcommittees of the senate of the 81st Legislature may continue to meet at such times and places during the interim as determined by such committees and subcommittees and to hold hearings, recommend legislation, and perform research on matters directed either by resolution, the lieutenant governor, or as determined by majority vote of each committee.

(b) Each continuing committee and subcommittee shall continue to function under the rules adopted during the legislative session where applicable.

(c) Expenses for the operation of these committees and subcommittees shall be paid pursuant to a budget prepared by each committee and approved by the administration committee.

(d) The operating expenses of these committees shall be paid from the contingent expense fund of the senate, and committee members shall be reimbursed for their actual expenses incurred in carrying out the duties of the committees.

SECTION 11. SENATE OFFICES. Members not returning for the 82nd Legislature shall vacate their senate offices by December 15, 2010.

SECTION 12. FURNISHING OF INFORMATION BY SENATE EMPLOYEE. An employee of the senate may not furnish any information to any person, firm, or corporation other than general information pertaining to the senate and routinely furnished to the public.

SECTION 13. OUTSIDE EMPLOYMENT. An employee of the senate may not be employed by and receive compensation from any other person, firm, or corporation during the employee's senate employment without the permission of the employee's senate employer.

SECTION 14. REMOVAL OF SENATE PROPERTY. The secretary of the senate is specifically directed not to permit the removal of any of the property of the senate from the senate chamber or the rooms of the senate except as authorized by the chairman of the administration committee.

SR 1116 was read and was adopted without objection.

PHYSICIAN OF THE DAY

Senator Wentworth was recognized and presented Dr. John Green III of San Antonio as the Physician of the Day.

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

SENATE RESOLUTION 1117

Senator Williams offered the following resolution:

WHEREAS, It is with great pride that the Texas Senate honors one of its most loyal and beloved staff members, Dianne Arrington, by naming her the 2009 administrative recipient of the Betty King Public Service Award; and

WHEREAS, During her long tenure as a legislative employee and officer of the Texas Senate, Dianne has always exemplified the best in Senate tradition, and she has earned the enduring admiration and affection of the legislators and her Capitol colleagues; and

WHEREAS, As Senate Journal Clerk, Dianne has deftly handled the many responsibilities entailed in publishing the *Senate Journal*, and she has a long-established reputation for carrying out her duties with enthusiasm, dedication, and proficiency; and

WHEREAS, Since becoming Journal Clerk in 1991, Dianne has been in charge of the accurate accounting of the Senate's daily proceedings and the documentation of bills, and she is known for having faced difficult deadlines and long hours with remarkable composure and perseverance; and

WHEREAS, As head of the Journal Department, Dianne has distinguished herself as a strong team leader who is known as much for her convivial personality as for her superior organizational skills and professional strengths; and

WHEREAS, Dianne is a much-cherished and highly respected Senate staff member whose presence in the Capitol will be greatly missed upon her retirement, and she is most deserving of her selection for the prestigious Betty King Public Service Award; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 81st Legislature, hereby commend Dianne Arrington on her invaluable service to the Texas Senate and extend congratulations to her on earning a 2009 Betty King Public Service Award; and, be it further

RESOLVED, That a copy of this Resolution be prepared as a tribute to Dianne Arrington.

SR 1117 was read.

On motion of Senator Williams and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Williams, the resolution was adopted without objection.

ADDRESS

Dianne Arrington, Journal Clerk for the Texas Senate, addressed the Senate as follows:

Thank you. It's been wonderful. The one thing that I've been thinking about, I guess, this past week, is that not many people can say that in almost 35 years that they've enjoyed going to their job every day, and I have. From the House to the Council to the Senate, I've just thoroughly enjoyed it. It's been a joy every day. That's a blessing. It's been wonderful working with you guys, you Senators, and I will miss you. Patsy, my boss, my friend, I love you. Thank you so much. My coworkers, my staff, if they're listening, they're probably doing journal, Wednesday was a bad journal, but thank you all so much. I love you. It's going to be, I'm going to enjoy my retirement. This is such an honor, and I'm very, very grateful. Thank you.

SENATE RESOLUTION 1118

Senator Williams offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to pay tribute to one of its most beloved and valued staff members, Betty Cotte, by naming her the 2009 legislative recipient of the Betty King Public Service Award; and

WHEREAS, Betty Cotte is the administrative director in the office of Senator Steve Ogden; known for handling her responsibilities with dedication and skill, Betty is held in high regard by the legislators and the many Capitol staff members with whom she works; and

WHEREAS, After serving in upper-level management in private industry for over 30 years, Betty joined Senator Ogden's staff in 1996, while he was serving in the Texas House of Representatives; as the senator's administrative director, Betty holds a position that entails a wide range of responsibilities; and

WHEREAS, She provides valuable administrative oversight of the senator's Capitol and district offices and plays a major role in helping to meet the needs and address the concerns of constituents; she is also responsible for managing the senator's schedule and is often in the position of answering the many questions regarding the legislative process and various political issues that are typically directed to a senator's office; and

WHEREAS, Betty is known for her poise, her perseverance, and her ability to consistently accomplish the mission before her, no matter the uniqueness of the task or the challenges entailed; her cheerful spirit, her ready smile, and her ability to maintain composure, even in the midst of chaos, endear her to all who know and work with her; and

WHEREAS, She is an impressive administrator who is highly respected for her work ethic, her professionalism, her positive attitude, and her loyalty and integrity, and she is most deserving of her selection for the Betty King Public Service Award; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 81st Legislature, hereby extend sincere appreciation to Betty Cotte for her outstanding service to the Texas Senate and congratulations to her on earning the 2009 Betty King Public Service Award; and, be it further

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

SR 1118 was read.

On motion of Senator Williams and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Williams, the resolution was adopted without objection.

SENATE RESOLUTION 1119

Senator Williams offered the following resolution:

WHEREAS, The Senate of the State of Texas is extremely proud to honor the employees of the Central Staff offices for their excellent work during the 81st Legislative Session; and

WHEREAS, The hallmark of the Central Staff is its deep loyalty to the Senate; Central Staff employees have consistently distinguished themselves through their knowledge, their professionalism, their dedication to public service, and, above all, their extraordinary teamwork; and

WHEREAS, The different departments work together around the clock to get the job done, be it the publication of the daily *Senate Journal*, the marathon proofing sessions of bills and resolutions, the overnight production of bills and bill analyses, or the printing of conference committee reports to meet end-of-session deadlines; and

WHEREAS, The staffers always rise to the occasion, skillfully executing mentally and sometimes physically demanding tasks in a way that looks effortless from the outside; both the longtime employees, who provide their invaluable institutional knowledge, and the new staffers, interns, and temporary employees, who bring their enthusiasm and different viewpoints, maintain a high regard for one another while working together toward a common purpose; and

WHEREAS, Despite the unforgiving deadlines of the legislative session, the staffers undertake their duties with pride and attention to detail; many staffers are required to be present on the floor whenever the Senate is in session, no matter how long that may be; after the Senate adjourns each day, the work of the staff continues, and late nights often last into the early morning of the following day; and

WHEREAS, Through the long hours they work during a session, staffers maintain their high spirits; the many people who work quietly behind the scenes to enable the Senate to carry out its constitutional duties include those in the Office of the Secretary of the Senate, the Auditor's Office, the Calendar Clerk's Office, the Engrossing and Enrolling Department, the Human Resources Department, the Senate Journal Office, the Media Services Department, the Payroll Department, the Post

Office, the Publications and Printing Office, the Purchasing and Supply Department, the Senate Research Center, the Sergeant-at-Arms Office, the Staff Services Office, and the Support Services Office; and

WHEREAS, Though often the workloads seem impossible, the Central Staff of the Texas Senate always rises to the challenge, exceeds expectations, and achieves excellent results; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 81st Legislature, hereby commend the Central Staff of the Texas Senate for their outstanding service to the Senate and the State of Texas and extend a sincere thank you to all the members of the staff for their hard work and dedication.

SR 1119 was read.

On motion of Senator Williams and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Williams, the resolution was adopted without objection.

APPRECIATION EXTENDED

Senator Williams, on behalf of the Senate, extended appreciation to Secretary of the Senate Patsy Spaw for her extraordinary service to the Texas Senate, and on motion of Senator West, the remarks were reduced to writing as follows:

Mr. President, it's my honor today to recognize our Secretary of the Senate, Patsy Spaw, for her outstanding service to the Texas Senate. Patsy started her career in the Senate in 1969 as a part-time key entry operator and became the Senate's chief administrative officer 32 years later. Her legislative knowledge, experience, and unique talents make her, in my opinion, the most valuable Senate employee and one of the most outstanding women in Texas government. Patsy is a woman of the utmost honor and integrity, both in her professional and personal life, and she truly deserves our recognition for all that she's accomplished. She manages an agency with over 600 employees and supervises 15 central staff department heads, while at the same time satisfying the demands and needs of all 31 of us that she calls boss. Patsy averages 1,200 hours of overtime in each legislative session. Over, that's half a year of work that she puts in in overtime during the session every other year, folks. That's, that's pretty, it's over half a year's work. Over the past 40 years, she's worked as a key entry operator, Engrossing and Enrolling Clerk, and now Secretary of the Senate. During her tenure as a Senate employee, she returned to school to earn her undergraduate degree, and then she was accepted by the South Texas College of Law and commuted between Elgin and Houston several times a week before transferring to The University of Texas Law School and graduating in 1993, while working full time, raising four children, and taking care of her husband, Steve. Patsy never seeks the spotlight. She works quietly in the background and serves all of us and our staffs' every need. She's an excellent role model for women who are entering state service. She's an accomplished author and has written several articles for professional journals and is currently working on a five-volume history of

the Texas Senate. She's also a standout in her work with the American Society of Legislative Clerks and Secretaries and served as President in 2007. I'm going to pause right there and deviate from my script a little bit, folks. People from all over the country ask Patsy Spaw how to run their Legislatures. She's often brought in as a consultant when other legislators update their computer systems. They want to know how Texas runs because Patsy Spaw is the gold standard of how things get done in the entire United States. The demands that we place on Patsy would daunt anyone, but she never fails to rise to the challenge, and she always does it with a smile and with patience and grace and good humor. Patsy has risen through the ranks, and while she was doing that, she's earned both her college degree, a law degree, she's made a loving home for her family, and she has made very significant contributions to this body. As a small token of our appreciation, I have a box of yellow roses here. Nancy, if you'd take that over to Patsy for us. We can't begin to show you how much we appreciate everything you do for us, Patsy.

SENATE RESOLUTION 1111

Senator Lucio offered the following resolution:

WHEREAS, The Senate of the State of Texas takes much pride in recognizing Paul Charles Thomas Cowen for his 20 years of outstanding service to Senator Eddie Lucio, Jr., and to our state; and

WHEREAS, A highly effective and respected employee of the Texas Senate, Paul Cowen engaged in hard work and aspired to success even as a youth, when he shined shoes on the streets of Brownsville and loaded fruits and vegetables in the railroad yard; by the time he was 18, he was a businessman who owned two gas stations; and

WHEREAS, While in high school, Paul learned the art of photography through the help of his friend, Raul Besterio, Jr., and due to the skills he developed, he was awarded a full scholarship to Pan American University; while in college, he met the woman who would capture his heart, Tamara Parrish, his wife of 37 years, with whom he has raised three children, Tara Jean, Jonathan Paul, and Timothy Patrick; and

WHEREAS, After operating Cowen Used Cars in Brownsville for 17 years, Paul took time off from business to help Eddie Lucio, his friend from childhood, during his campaign for election to the Texas Legislature; soon thereafter, he joined Senator Lucio's staff and has been a loyal and dependable administrator ever since; and

WHEREAS, A man of many talents, Paul has been a source of assistance and support for the constituents of Senate District 27 on virtually every manner of issue; he has helped constituents with child support cases, worker's compensation, medical board inquiries, health issues, tax problems, and business licenses; and

WHEREAS, The recipient of an award from the Department of Public Safety of the State of Texas for helping to save a man's life, Paul is known for his generous spirit and selflessness and for his engaging personality and love of people; and

WHEREAS, On April 23, 2003, he served as Senator for a Day representing Senate District 27; his work on behalf of the Texas Senate has been exemplary and of the highest quality, and his presence as a valued employee will be greatly missed; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 81st Legislature, hereby express appreciation to Paul Charles Thomas Cowen for his many years of outstanding service in the office of Senator Eddie Lucio, Jr., and extend to him best wishes for the retirement years ahead; and, be it further

RESOLVED, That a copy of this Resolution be prepared in honor of Paul Charles Thomas Cowen.

SR 1111 was read.

On motion of Senator Duncan and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Lucio, the resolution was adopted without objection.

GUESTS PRESENTED

Senator Lucio was recognized and introduced to the Senate Paul and Tamara Cowen.

The Senate welcomed its guests.

REMARKS ORDERED PRINTED

On motion of Senator Duncan and by unanimous consent, the remarks by Senator Lucio regarding **SR 1111** were ordered reduced to writing and printed in the *Senate Journal* as follows:

President Fraser, thank you. Members, it is with a heavy heart, quite frankly, that I stand before you this afternoon to really reflect on the life of my very dear friend, Paul Cowen. Paul was born in Brownsville, Texas. He's one of 11 children. His mother was my teacher in junior high school. That's where I first met Paul. He's a few years younger than me. So, he'd go barefooted to go greet his mama after school, and that's where I first met Paul, when his mother was my teacher. And I want you to just take a moment and think about when you were 11 years old and the possibility of your daddy passing away. That's what happened to my dear friend. He was 11 years old, his daddy died. His mama, a teacher, took hold of her family, continued to teach, continued to work on her education, got her master's degree, continued to be the best of the best educators we ever, have ever had in Brownsville, Texas. Paul is much more than a state employee, means much more than just another state employee, and I love state employees. He is family, and I wanted us to take a moment this afternoon to thank him, because, quite frankly, everything that Patsy said is true and much, much more. I can't tell you how much I appreciate him, his lovely wife of 37 years, Tami, who joins him on the Senate floor today. His daughter that most of us know, Tara, who worked for Senator Harris in Administration, and now works for Senator Fraser, her, their first-born, and Jonathan, and the rest of the family, they're up in the north gallery. Jonathan was their

first-born son. Timmy, the baby of the family, he's about 6'7" and 290, maybe 300. Stand up, Timmy. There you go. I'm not lying. Timmy and Jonathan, and I think the joy of their life lately is a little girl, a little granddaughter named Isabella. I could talk so much about the life that this gentleman has had, and I can tell you one thing, it hasn't been easy. He's worked very hard. He took off when his dad died. He built himself a little shoeshine box and took off downtown, and his daily goal was to make enough money to be able to put some food on the table for him and his little brothers. And I have a great deal of respect for a person, a man or woman, who really gives of himself or herself. In this case, Paul has given so much. And to have him by my side over the years has been a joy because I know that if my car breaks down, he's going to fix it. If the electricity goes out at home, I can call him, and he'll tell me what to do to put it back on. He can just do about anything. And I know that I'm glad for modern technology, where I can text message him or call him on the phone, because I know he'll still be there for me and for the entire staff. He is the Dean of the Chiefs of Staff in the Texas Senate, because he served the longest. And I just want to confess to you, the reason he talks a little loud is because I'm a little hard of hearing, as you well know. And Frank Madla was a little hard of hearing, and our President Pro Tem is just a little bit hard of hearing. So, Paul makes sure that we hear the things we need to know. But seriously, I want to take this opportunity to congratulate him. My son is with me. He was there when my son was born. As I mentioned, Paul and I knew each other from childhood, and he knows my family very well. I'm one of 10 kids, and I had a small family to compare to his, but together in the neighborhood, we were 21 kids, just in two families. But that was life in Brownsville, Texas, back in the '50s and early '60s, and I stand before you, extremely proud. I couldn't be more proud of an individual who has given of himself for many years to ensure that people in my district and in this state have a better quality of life in their households. He's worked in so many pieces of legislation of every nature that we've ever brought to this Capitol. And I know he's worked with many of you directly and with your staffs. And I want to salute him today, and I ask you to join with me. We will have a little reception at 3:00, I believe today, yes, 3:00 at the Lieutenant Governor's Reception Room. If you have a little chance to come by, join Representative Lucio and myself. Today, it's just quite an honor for me to have this opportunity to reflect on his life, and I cannot do him justice, not at all, for all the things he's accomplished for the people that I serve, for our neighbors, and in Mexico. You talk about a guy that can speak Spanish, Governor Dewhurst, I have to say, Paul's in second to this guy. And I take him into Mexico because he's my interpreter and he's able to communicate with those Mexicans south of the border. Ladies and Gentlemen, Senators, it gives me great honor and pleasure at this time, and again, it's a sad moment for me. I'm losing my right arm, my left arm, and part of my heart, because we've done so much together. And if you've seen the compassion that this man has had over the years, you would understand why I'm a little emotional. But I proudly move

at this time that we adopt and you join me on Senate Resolution 1111 in appreciation, and expressing our appreciation to Paul Charles Thomas Cowen, a great Texan.

ACKNOWLEDGMENT

The President acknowledged the presence of the Honorable Edmund Kuempel of the House of Representatives.

The Senate welcomed its guest.

VOTE RECONSIDERED ON HOUSE BILL 3653

On motion of Senator Davis and by unanimous consent, the vote by which the Conference Committee Report on **HB 3653** was adopted was reconsidered.

Question — Shall the Conference Committee Report on **HB 3653** be adopted?

On motion of Senator Davis and by unanimous consent, **HB 3653** was recommitted to the conference committee.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 2521 ADOPTED

Senator West called from the President's table the Conference Committee Report on **HB 2521**. The Conference Committee Report was filed with the Senate on Saturday, May 30, 2009.

On motion of Senator West, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

SENATE RESOLUTION 1106

Senator Shapiro offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 81st Legislature, Regular Session, 2009, 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 3646** (public school finance and programs) to consider and take action on the following matters:

(1) Senate Rule 12.03(4) is suspended to permit the committee to add text on a matter not included in either version of the bill by adding the following new SECTION to the bill:

SECTION 22. Section 29.190, Education Code, is amended by amending Subsections (a) and (c) and adding Subsection (e) to read as follows:

(a) A student is entitled to a subsidy under this section if:

(1) the student:

(A) ~~(+)~~ successfully completes the career and technology program of a school district in which the student receives training and instruction for employment in a current or emerging high-demand, high-wage, high-skill ~~[certain trade or occupation, as determined under Subsection (e); or~~

(B) is enrolled in a special education program under Subchapter A;

(2) the student passes a certification examination to qualify for a license or certificate for the ~~[trade or]~~ occupation; and

(3) the student submits to the district a written application in the form, time, and manner required by the district for the district to subsidize the cost of an examination described by Subdivision (2) [~~demonstrates financial need~~].

(c) On approval by the commissioner, the agency shall pay each school district [~~eligible student~~] an amount equal to the cost paid by the district or student for the certification examination. To obtain reimbursement for a subsidy paid under this section, a district [~~student~~] must:

(1) pay the fee for the examination or pay the student the amount of the fee paid by the student for the examination; and

(2) submit to the commissioner a written application on a form prescribed by the commissioner stating [~~demonstrating financial need and~~] the amount of the fee paid under Subdivision (1) [~~by the student~~] for the certification examination.

(e) The commissioner, in collaboration with the commissioner of higher education and the Texas Workforce Commission, shall determine as necessary the occupations that qualify for purposes of this section.

EXPLANATION: This addition is necessary to provide reimbursement to school districts for subsidies provided by districts to students who pass certification examinations for certain occupations.

(2) Senate Rule 12.03(4) is suspended to permit the committee to add text on a matter not included in either version of the bill by adding the following new SECTION to the bill:

SECTION 90. (a) Section 5, Chapter 259 (H.B. 323), Acts of the 80th Legislature, Regular Session, 2007, is repealed.

(b) Section 547.701(e), Transportation Code, as added by Chapter 259 (H.B. 323), Acts of the 80th Legislature, Regular Session, 2007, takes effect September 1, 2009.

(c) Section 547.701, Transportation Code, is amended by adding Subsection (f) to read as follows:

(f) A school district is required to comply with Subsection (e) only to the extent that the Texas Education Agency pays or commits to pay the district for expenses incurred in complying with that subsection. The Texas Education Agency may make grants of appropriated money for the purpose of paying school districts under this subsection.

EXPLANATION: This addition is necessary to address the applicability of requirements regarding seat belts on a school bus and the provision of funding to meet those requirements.

(3) Senate Rule 12.03(4) is suspended to permit the committee to add text on a matter not included in either version of the bill by adding the following new SECTION to the bill:

SECTION 96. (a) The commissioner of education shall determine the percentage of entitlement in the foundation school program or other program that represents the use of education stabilization funds received under the American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5). In order to receive that percentage of total funds available to a school district or open-enrollment charter school under the foundation school program or other program, a district or school may be required to apply to the commissioner using an application developed by the

commissioner. The commissioner may require an applicant to make assurances as to the use and monitoring of funds applied for or other requirements, consistent with the American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5).

(b) If any of the funds received by the state under the American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5) that were appropriated for the purpose of funding the foundation school program or other program are determined to be unavailable temporarily or permanently for that purpose, the commissioner shall reduce the total amount of funds to which a district or school is entitled under Chapters 41 and 42, Education Code, or other programs proportional to the percentage determined under Subsection (a) of this section. A reduction in funding under this subsection does not increase the entitlement of a district or school in any subsequent year.

(c) This section applies to funding provided under Chapters 41 and 42, Education Code, as amended by this Act, for the 2009-2010 and 2010-2011 school years. A decision by the commissioner under this section is final and may not be appealed.

EXPLANATION: This addition is necessary to provide for compliance with any requirements associated with the use of funds received by the state under the American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5) and to permit the commissioner of education to make funding modifications if necessary as a result of federal determinations regarding use of those funds.

SR 1106 was read and was adopted without objection.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 3646 ADOPTED**

Senator Shapiro called from the President's table the Conference Committee Report on **HB 3646**. The Conference Committee Report was filed with the Senate on Saturday, May 30, 2009.

(President in Chair)

On motion of Senator Shapiro, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

(Senator Eltife in Chair)

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 2553 ADOPTED**

Senator Davis called from the President's table the Conference Committee Report on **HB 2553**. The Conference Committee Report was filed with the Senate on Sunday, May 31, 2009.

On motion of Senator Davis, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 1.

Nays: Patrick.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 4244 ADOPTED**

Senator Zaffirini called from the President's table the Conference Committee Report on **HB 4244**. The Conference Committee Report was filed with the Senate on Saturday, May 30, 2009.

On motion of Senator Zaffirini, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 3224 ADOPTED**

Senator Whitmire called from the President's table the Conference Committee Report on **HB 3224**. The Conference Committee Report was filed with the Senate on Saturday, May 30, 2009.

On motion of Senator Whitmire, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 3621 ADOPTED**

Senator Carona called from the President's table the Conference Committee Report on **HB 3621**. The Conference Committee Report was filed with the Senate on Saturday, May 30, 2009.

On motion of Senator Carona, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 1.

Nays: Shapleigh.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 171 ADOPTED**

Senator Gallegos called from the President's table the Conference Committee Report on **HB 171**. The Conference Committee Report was filed with the Senate on Saturday, May 30, 2009.

On motion of Senator Gallegos, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 1.

Nays: Nelson.

SENATE RESOLUTION 1082

Senator Wentworth offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 81st Legislature, Regular Session, 2009, 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 2682** (the authority of municipalities to alter speed limits) to consider and take action on the following matter:

Senate Rule 12.03(1), is suspended to permit the committee to change text not in disagreement in SECTION 1 of the bill, in Subsections (b-1) and (b-2), Section 545.356, Transportation Code, to read as follows:

(b-1) ~~The [Except as provided by Subsection (b-2), the] governing body of a municipality, for a highway or a part of a highway in [an urban district in] the municipality that is not an officially designated or marked highway or road of the state highway system, [is 35 feet or less in width, and along which vehicular parking is not prohibited on one or both sides of the highway,]~~ may declare a lower speed limit of not less than 25 miles per hour, if the governing body determines that the prima facie speed limit on the highway is unreasonable or unsafe.

(b-2) Subsection (b-1) applies only ~~[does not apply]~~ to a two-lane, undivided highway or part of a highway ~~[that has four or more lanes used for vehicular travel].~~

Explanation: This change is necessary to clarify the type of highway to which a municipality's authority to alter the speed limit applies.

SR 1082 was read and was adopted without objection.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 2682 ADOPTED

Senator Wentworth called from the President's table the Conference Committee Report on **HB 2682**. The Conference Committee Report was filed with the Senate on Saturday, May 30, 2009.

On motion of Senator Wentworth, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 2093 ADOPTED

Senator Hegar 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 30, 2009.

On motion of Senator Hegar, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 2442 ADOPTED

Senator Uresti called from the President's table the Conference Committee Report on **SB 2442**. The Conference Committee Report was filed with the Senate on Saturday, May 30, 2009.

On motion of Senator Uresti, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 2003 ADOPTED

Senator Watson called from the President's table the Conference Committee Report on **HB 2003**. The Conference Committee Report was filed with the Senate on Saturday, May 30, 2009.

On motion of Senator Watson, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

SENATE RESOLUTION 1089

Senator Carona offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 81st Legislature, Regular Session, 2009, 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 408** (jurisdiction, venue, and appeals in certain matters, including the jurisdiction of and appeals from certain courts and administrative decisions and the appointment of counsel in certain appeals) to consider and take action on the following matters:

(1) Senate Rule 12.03(4) is suspended to permit the committee to add text not included in either the house or senate version of the bill by adding the following SECTIONS to the bill:

SECTION 12. (a) Section 3(bb), Texas Probate Code, is amended to read as follows:

(bb) "Probate proceeding" is synonymous with the terms "Probate matter," ~~["Probate proceedings,"]~~ "Proceeding in probate," and "Proceedings for probate." The term means a matter or proceeding related to the estate of a decedent ~~[are synonymous]~~ and includes:

- (1) the probate of a will, with or without administration of the estate;
- (2) the issuance of letters testamentary and of administration;
- (3) an heirship determination or small estate affidavit, community property administration, and homestead and family allowances;
- (4) an application, petition, motion, or action regarding the probate of a will or an estate administration, including a claim for money owed by the decedent;
- (5) a claim arising from an estate administration and any action brought on the claim;
- (6) the settling of a personal representative's account of an estate and any other matter related to the settlement, partition, or distribution of an estate; and
- (7) a will construction suit ~~[include a matter or proceeding relating to the estate of a decedent].~~

(b) Chapter I, Texas Probate Code, is amended by adding Sections 4A, 4B, 4C, 4D, 4E, 4F, 4G, and 4H to read as follows:

Sec. 4A. GENERAL PROBATE COURT JURISDICTION; APPEALS. (a) All probate proceedings must be filed and heard in a court exercising original probate jurisdiction. The court exercising original probate jurisdiction also has jurisdiction of all matters related to the probate proceeding as specified in Section 4B of this code for that type of court.

(b) A probate court may exercise pendent and ancillary jurisdiction as necessary to promote judicial efficiency and economy.

(c) A final order issued by a probate court is appealable to the court of appeals.

Sec. 4B. MATTERS RELATED TO PROBATE PROCEEDING. (a) For purposes of this code, in a county in which there is no statutory probate court or county court at law exercising original probate jurisdiction, a matter related to a probate proceeding includes:

- (1) an action against a personal representative or former personal representative arising out of the representative's performance of the duties of a personal representative;

(2) an action against a surety of a personal representative or former personal representative;

(3) a claim brought by a personal representative on behalf of an estate;

(4) an action brought against a personal representative in the representative's capacity as personal representative;

(5) an action for trial of title to real property that is estate property, including the enforcement of a lien against the property; and

(6) an action for trial of the right of property that is estate property.

(b) For purposes of this code, in a county in which there is no statutory probate court, but in which there is a county court at law exercising original probate jurisdiction, a matter related to a probate proceeding includes:

(1) all matters and actions described in Subsection (a) of this section;

(2) the interpretation and administration of a testamentary trust if the will creating the trust has been admitted to probate in the court; and

(3) the interpretation and administration of an inter vivos trust created by a decedent whose will has been admitted to probate in the court.

(c) For purposes of this code, in a county in which there is a statutory probate court, a matter related to a probate proceeding includes:

(1) all matters and actions described in Subsections (a) and (b) of this section; and

(2) any cause of action in which a personal representative of an estate pending in the statutory probate court is a party in the representative's capacity as personal representative.

Sec. 4C. ORIGINAL JURISDICTION FOR PROBATE PROCEEDINGS.

(a) In a county in which there is no statutory probate court or county court at law exercising original probate jurisdiction, the county court has original jurisdiction of probate proceedings.

(b) In a county in which there is no statutory probate court, but in which there is a county court at law exercising original probate jurisdiction, the county court at law exercising original probate jurisdiction and the county court have concurrent original jurisdiction of probate proceedings, unless otherwise provided by law. The judge of a county court may hear probate proceedings while sitting for the judge of any other county court.

(c) In a county in which there is a statutory probate court, the statutory probate court has original jurisdiction of probate proceedings.

Sec. 4D. JURISDICTION OF CONTESTED PROBATE PROCEEDING IN COUNTY WITH NO STATUTORY PROBATE COURT OR STATUTORY COUNTY COURT.

(a) In a county in which there is no statutory probate court or county court at law exercising original probate jurisdiction, when a matter in a probate proceeding is contested, the judge of the county court may, on the judge's own motion, or shall, on the motion of any party to the proceeding, according to the motion:

(1) request the assignment of a statutory probate court judge to hear the contested matter, as provided by Section 25.0022, Government Code; or

(2) transfer the contested matter to the district court, which may then hear the contested matter as if originally filed in the district court.

(b) If a party to a probate proceeding files a motion for the assignment of a statutory probate court judge to hear a contested matter in the proceeding before the judge of the county court transfers the contested matter to a district court under this section, the county judge shall grant the motion for the assignment of a statutory probate court judge and may not transfer the matter to the district court unless the party withdraws the motion.

(c) A party to a probate proceeding may file a motion for the assignment of a statutory probate court judge under this section before a matter in the proceeding becomes contested, and the motion is given effect as a motion for assignment of a statutory probate court judge under Subsection (a) of this section if the matter later becomes contested.

(d) Notwithstanding any other law, a transfer of a contested matter in a probate proceeding to a district court under any authority other than the authority provided by this section:

(1) is disregarded for purposes of this section; and

(2) does not defeat the right of a party to the proceeding to have the matter assigned to a statutory probate court judge in accordance with this section.

(e) A statutory probate court judge assigned to a contested matter under this section has the jurisdiction and authority granted to a statutory probate court by this code. On resolution of a contested matter for which a statutory probate court judge is assigned under this section, including any appeal of the matter, the statutory probate court judge shall return the matter to the county court for further proceedings not inconsistent with the orders of the statutory probate court or court of appeals, as applicable.

(f) A district court to which a contested matter is transferred under this section has the jurisdiction and authority granted to a statutory probate court by this code. On resolution of a contested matter transferred to the district court under this section, including any appeal of the matter, the district court shall return the matter to the county court for further proceedings not inconsistent with the orders of the district court or court of appeals, as applicable.

(g) The county court shall continue to exercise jurisdiction over the management of the estate, other than a contested matter, until final disposition of the contested matter is made in accordance with this section. After a contested matter is transferred to a district court, any matter related to the probate proceeding may be brought in the district court. The district court in which a matter related to the probate proceeding is filed may, on its own motion or on the motion of any party, find that the matter is not a contested matter and transfer the matter to the county court with jurisdiction of the management of the estate.

(h) If a contested matter in a probate proceeding is transferred to a district court under this section, the district court has jurisdiction of any contested matter in the proceeding that is subsequently filed, and the county court shall transfer those contested matters to the district court. If a statutory probate court judge is assigned under this section to hear a contested matter in a probate proceeding, the statutory probate court judge shall be assigned to hear any contested matter in the proceeding that is subsequently filed.

(i) The clerk of a district court to which a contested matter in a probate proceeding is transferred under this section may perform in relation to the contested matter any function a county clerk may perform with respect to that type of matter.

Sec. 4E. JURISDICTION OF CONTESTED PROBATE PROCEEDING IN COUNTY WITH NO STATUTORY PROBATE COURT. (a) In a county in which there is no statutory probate court, but in which there is a county court at law exercising original probate jurisdiction, when a matter in a probate proceeding is contested, the judge of the county court may, on the judge's own motion, or shall, on the motion of any party to the proceeding, transfer the contested matter to the county court at law. In addition, the judge of the county court, on the judge's own motion or on the motion of a party to the proceeding, may transfer the entire proceeding to the county court at law.

(b) A county court at law to which a proceeding is transferred under this section may hear the proceeding as if originally filed in that court. If only a contested matter in the proceeding is transferred, on the resolution of the matter, the matter shall be returned to the county court for further proceedings not inconsistent with the orders of the county court at law.

Sec. 4F. EXCLUSIVE JURISDICTION OF PROBATE PROCEEDING IN COUNTY WITH STATUTORY PROBATE COURT. (a) In a county in which there is a statutory probate court, the statutory probate court has exclusive jurisdiction of all probate proceedings, regardless of whether contested or uncontested. A cause of action related to the probate proceeding must be brought in a statutory probate court unless the jurisdiction of the statutory probate court is concurrent with the jurisdiction of a district court as provided by Section 4H of this code or with the jurisdiction of any other court.

(b) This section shall be construed in conjunction and in harmony with Section 145 of this code and all other sections of this code relating to independent executors, but may not be construed to expand the court's control over an independent executor.

Sec. 4G. JURISDICTION OF STATUTORY PROBATE COURT WITH RESPECT TO TRUSTS AND POWERS OF ATTORNEY. In a county in which there is a statutory probate court, the statutory probate court has jurisdiction of:

- (1) an action by or against a trustee;
- (2) an action involving an inter vivos trust, testamentary trust, or charitable trust;
- (3) an action against an agent or former agent under a power of attorney arising out of the agent's performance of the duties of an agent; and
- (4) an action to determine the validity of a power of attorney or to determine an agent's rights, powers, or duties under a power of attorney.

Sec. 4H. CONCURRENT JURISDICTION WITH DISTRICT COURT. A statutory probate court has concurrent jurisdiction with the district court in:

- (1) a personal injury, survival, or wrongful death action by or against a person in the person's capacity as a personal representative;
- (2) an action by or against a trustee;
- (3) an action involving an inter vivos trust, testamentary trust, or charitable trust;

(4) an action involving a personal representative of an estate in which each other party aligned with the personal representative is not an interested person in that estate;

(5) an action against an agent or former agent under a power of attorney arising out of the agent's performance of the duties of an agent; and

(6) an action to determine the validity of a power of attorney or to determine an agent's rights, powers, or duties under a power of attorney.

(c) Section 5B(a), Texas Probate Code, is amended to read as follows:

(a) A judge of a statutory probate court, on the motion of a party to the action or on the motion of a person interested in an estate, may transfer to the judge's ~~his~~ court from a district, county, or statutory court a cause of action related to a probate proceeding ~~[appertaining to or incident to an estate]~~ pending in the statutory probate court or a cause of action in which a personal representative of an estate pending in the statutory probate court is a party and may consolidate the transferred cause of action with the other proceedings in the statutory probate court relating to that estate.

(d) Section 25.0022(i), Government Code, is amended to read as follows:

(i) A judge assigned under this section has the jurisdiction, powers, and duties given by Sections 4A, 4C, 4F, 4G, 4H ~~[5, 5A]~~, 5B, 606, 607, and 608, Texas Probate Code, to statutory probate court judges by general law.

(e) Section 25.1132(c), Government Code, is amended to read as follows:

(c) A county court at law in Hood County has concurrent jurisdiction with the district court in:

(1) civil cases in which the matter in controversy exceeds \$500 but does not exceed \$250,000, excluding interest;

(2) family law cases and related proceedings;

(3) contested probate matters under Section 4D(a) ~~[5(b)]~~, Texas Probate Code; and

(4) contested guardianship matters under Section 606(b), Texas Probate Code.

(f) Section 25.1863(b), Government Code, is amended to read as follows:

(b) A county court at law has concurrent jurisdiction with the district court over contested probate matters. Notwithstanding the requirement in ~~[Subsection (b),]~~ Section 4D(a) ~~[5]~~, Texas Probate Code, that the judge of the constitutional county court transfer a contested probate proceeding to the district court, the judge of the constitutional county court shall transfer the proceeding under that section to either a county court at law in Parker County or a district court in Parker County. A county court at law has the jurisdiction, powers, and duties that a district court has under ~~[Subsection (b),]~~ Section 4D(a) ~~[5]~~, Texas Probate Code, for the transferred proceeding, and the county clerk acts as clerk for the proceeding. The contested proceeding may be transferred between a county court at law in Parker County and a district court in Parker County as provided by local rules of administration.

(g) Section 123.005(a), Property Code, is amended to read as follows:

(a) Venue in a proceeding brought by the attorney general alleging breach of a fiduciary duty by a fiduciary or managerial agent of a charitable trust shall be a court of competent jurisdiction in Travis County or in the county where the defendant resides or has its principal office. To the extent of a conflict between this subsection

and any provision of the Texas Probate Code providing for venue of a proceeding brought with respect to a charitable trust created by a will that has been admitted to probate, this subsection controls.

(h) Sections 4, 5, and 5A, Texas Probate Code, are repealed.

(i) The changes in law made by this section apply only to an action filed or a proceeding commenced on or after the effective date of this Act. An action filed or proceeding commenced before the effective date of this Act is governed by the law in effect on the date the action was filed or the proceeding was commenced, and the former law is continued in effect for that purpose.

SECTION 13. (a) Effective January 1, 2014, Subtitle A, Title 2, Estates Code, as adopted by H.B. No. 2502, Acts of the 81st Legislature, Regular Session, 2009, if that Act is enacted and becomes law, is amended by adding Chapters 31 and 32 to read as follows:

CHAPTER 31. GENERAL PROVISIONS

Sec. 31.001. SCOPE OF "PROBATE PROCEEDING" FOR PURPOSES OF CODE. The term "probate proceeding," as used in this code, includes:

- (1) the probate of a will, with or without administration of the estate;
- (2) the issuance of letters testamentary and of administration;
- (3) an heirship determination or small estate affidavit, community property administration, and homestead and family allowances;
- (4) an application, petition, motion, or action regarding the probate of a will or an estate administration, including a claim for money owed by the decedent;
- (5) a claim arising from an estate administration and any action brought on the claim;
- (6) the settling of a personal representative's account of an estate and any other matter related to the settlement, partition, or distribution of an estate; and
- (7) a will construction suit.

Sec. 31.002. MATTERS RELATED TO PROBATE PROCEEDING. (a) For purposes of this code, in a county in which there is no statutory probate court or county court at law exercising original probate jurisdiction, a matter related to a probate proceeding includes:

- (1) an action against a personal representative or former personal representative arising out of the representative's performance of the duties of a personal representative;
- (2) an action against a surety of a personal representative or former personal representative;
- (3) a claim brought by a personal representative on behalf of an estate;
- (4) an action brought against a personal representative in the representative's capacity as personal representative;
- (5) an action for trial of title to real property that is estate property, including the enforcement of a lien against the property; and
- (6) an action for trial of the right of property that is estate property.

(b) For purposes of this code, in a county in which there is no statutory probate court, but in which there is a county court at law exercising original probate jurisdiction, a matter related to a probate proceeding includes:

- (1) all matters and actions described in Subsection (a);

(2) the interpretation and administration of a testamentary trust if the will creating the trust has been admitted to probate in the court; and

(3) the interpretation and administration of an inter vivos trust created by a decedent whose will has been admitted to probate in the court.

(c) For purposes of this code, in a county in which there is a statutory probate court, a matter related to a probate proceeding includes:

(1) all matters and actions described in Subsections (a) and (b); and

(2) any cause of action in which a personal representative of an estate pending in the statutory probate court is a party in the representative's capacity as personal representative.

CHAPTER 32. JURISDICTION

Sec. 32.001. GENERAL PROBATE COURT JURISDICTION; APPEALS.

(a) All probate proceedings must be filed and heard in a court exercising original probate jurisdiction. The court exercising original probate jurisdiction also has jurisdiction of all matters related to the probate proceeding as specified in Section 31.002 for that type of court.

(b) A probate court may exercise pendent and ancillary jurisdiction as necessary to promote judicial efficiency and economy.

(c) A final order issued by a probate court is appealable to the court of appeals.

Sec. 32.002. ORIGINAL JURISDICTION FOR PROBATE PROCEEDINGS.

(a) In a county in which there is no statutory probate court or county court at law exercising original probate jurisdiction, the county court has original jurisdiction of probate proceedings.

(b) In a county in which there is no statutory probate court, but in which there is a county court at law exercising original probate jurisdiction, the county court at law exercising original probate jurisdiction and the county court have concurrent original jurisdiction of probate proceedings, unless otherwise provided by law. The judge of a county court may hear probate proceedings while sitting for the judge of any other county court.

(c) In a county in which there is a statutory probate court, the statutory probate court has original jurisdiction of probate proceedings.

Sec. 32.003. JURISDICTION OF CONTESTED PROBATE PROCEEDING IN COUNTY WITH NO STATUTORY PROBATE COURT OR STATUTORY COUNTY COURT.

(a) In a county in which there is no statutory probate court or county court at law exercising original probate jurisdiction, when a matter in a probate proceeding is contested, the judge of the county court may, on the judge's own motion, or shall, on the motion of any party to the proceeding, according to the motion:

(1) request the assignment of a statutory probate court judge to hear the contested matter, as provided by Section 25.0022, Government Code; or

(2) transfer the contested matter to the district court, which may then hear the contested matter as if originally filed in the district court.

(b) If a party to a probate proceeding files a motion for the assignment of a statutory probate court judge to hear a contested matter in the proceeding before the judge of the county court transfers the contested matter to a district court under this

section, the county judge shall grant the motion for the assignment of a statutory probate court judge and may not transfer the matter to the district court unless the party withdraws the motion.

(c) A party to a probate proceeding may file a motion for the assignment of a statutory probate court judge under this section before a matter in the proceeding becomes contested, and the motion is given effect as a motion for assignment of a statutory probate court judge under Subsection (a) if the matter later becomes contested.

(d) Notwithstanding any other law, a transfer of a contested matter in a probate proceeding to a district court under any authority other than the authority provided by this section:

(1) is disregarded for purposes of this section; and

(2) does not defeat the right of a party to the proceeding to have the matter assigned to a statutory probate court judge in accordance with this section.

(e) A statutory probate court judge assigned to a contested matter under this section has the jurisdiction and authority granted to a statutory probate court by this subtitle. On resolution of a contested matter for which a statutory probate court judge is assigned under this section, including any appeal of the matter, the statutory probate court judge shall return the matter to the county court for further proceedings not inconsistent with the orders of the statutory probate court or court of appeals, as applicable.

(f) A district court to which a contested matter is transferred under this section has the jurisdiction and authority granted to a statutory probate court by this subtitle. On resolution of a contested matter transferred to the district court under this section, including any appeal of the matter, the district court shall return the matter to the county court for further proceedings not inconsistent with the orders of the district court or court of appeals, as applicable.

(g) The county court shall continue to exercise jurisdiction over the management of the estate, other than a contested matter, until final disposition of the contested matter is made in accordance with this section. After a contested matter is transferred to a district court, any matter related to the probate proceeding may be brought in the district court. The district court in which a matter related to the probate proceeding is filed may, on its own motion or on the motion of any party, find that the matter is not a contested matter and transfer the matter to the county court with jurisdiction of the management of the estate.

(h) If a contested matter in a probate proceeding is transferred to a district court under this section, the district court has jurisdiction of any contested matter in the proceeding that is subsequently filed, and the county court shall transfer those contested matters to the district court. If a statutory probate court judge is assigned under this section to hear a contested matter in a probate proceeding, the statutory probate court judge shall be assigned to hear any contested matter in the proceeding that is subsequently filed.

(i) The clerk of a district court to which a contested matter in a probate proceeding is transferred under this section may perform in relation to the contested matter any function a county clerk may perform with respect to that type of matter.

Sec. 32.004. JURISDICTION OF CONTESTED PROBATE PROCEEDING IN COUNTY WITH NO STATUTORY PROBATE COURT. (a) In a county in which there is no statutory probate court, but in which there is a county court at law exercising original probate jurisdiction, when a matter in a probate proceeding is contested, the judge of the county court may, on the judge's own motion, or shall, on the motion of any party to the proceeding, transfer the contested matter to the county court at law. In addition, the judge of the county court, on the judge's own motion or on the motion of a party to the proceeding, may transfer the entire proceeding to the county court at law.

(b) A county court at law to which a proceeding is transferred under this section may hear the proceeding as if originally filed in that court. If only a contested matter in the proceeding is transferred, on the resolution of the matter, the matter shall be returned to the county court for further proceedings not inconsistent with the orders of the county court at law.

Sec. 32.005. EXCLUSIVE JURISDICTION OF PROBATE PROCEEDING IN COUNTY WITH STATUTORY PROBATE COURT. (a) In a county in which there is a statutory probate court, the statutory probate court has exclusive jurisdiction of all probate proceedings, regardless of whether contested or uncontested. A cause of action related to the probate proceeding must be brought in a statutory probate court unless the jurisdiction of the statutory probate court is concurrent with the jurisdiction of a district court as provided by Section 32.007 or with the jurisdiction of any other court.

(b) This section shall be construed in conjunction and in harmony with Section 145 and all other sections of this title relating to independent executors, but may not be construed to expand the court's control over an independent executor.

Sec. 32.006. JURISDICTION OF STATUTORY PROBATE COURT WITH RESPECT TO TRUSTS AND POWERS OF ATTORNEY. In a county in which there is a statutory probate court, the statutory probate court has jurisdiction of:

(1) an action by or against a trustee;
(2) an action involving an inter vivos trust, testamentary trust, or charitable trust;

(3) an action against an agent or former agent under a power of attorney arising out of the agent's performance of the duties of an agent; and

(4) an action to determine the validity of a power of attorney or to determine an agent's rights, powers, or duties under a power of attorney.

Sec. 32.007. CONCURRENT JURISDICTION WITH DISTRICT COURT. A statutory probate court has concurrent jurisdiction with the district court in:

(1) a personal injury, survival, or wrongful death action by or against a person in the person's capacity as a personal representative;

(2) an action by or against a trustee;
(3) an action involving an inter vivos trust, testamentary trust, or charitable trust;

(4) an action involving a personal representative of an estate in which each other party aligned with the personal representative is not an interested person in that estate;

(5) an action against an agent or former agent under a power of attorney arising out of the agent's performance of the duties of an agent; and

(6) an action to determine the validity of a power of attorney or to determine an agent's rights, powers, or duties under a power of attorney.

(b) Sections 4A, 4B, 4C, 4D, 4E, 4F, 4G, and 4H, Texas Probate Code, as added by Section 12 of this Act, are repealed.

(c) Except as otherwise provided by this subsection, this section takes effect January 1, 2014. The changes in law made by this section take effect only if H.B. No. 2502, Acts of the 81st Legislature, Regular Session, 2009, is enacted and becomes law. If that bill does not become law, this section has no effect.

Explanation: This addition is necessary to amend provisions relating to jurisdiction and venue of probate proceedings and proceedings regarding powers of attorney and certain trusts and to add corresponding provisions to the Estates Code if legislation creating that code is enacted and becomes law.

(2) Senate Rule 12.03(1) is suspended to permit the committee to change, alter, or amend text not in disagreement by substituting the following for the effective date provision of the bill:

SECTION 15. Except as otherwise provided by this Act, this Act takes effect September 1, 2009.

Explanation: The change in the effective date provision is a technical change made necessary by the addition of SECTION 13 to the bill, as explained in Item (1) of this resolution. The changes in law made by that SECTION take effect January 1, 2014, if certain circumstances are met.

SR 1089 was read and was adopted without objection.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 408 ADOPTED

Senator Carona called from the President's table the Conference Committee Report on **SB 408**. The Conference Committee Report was filed with the Senate on Saturday, May 30, 2009.

On motion of Senator Carona, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 2854 ADOPTED

Senator Deuell called from the President's table the Conference Committee Report on **HB 2854**. The Conference Committee Report was filed with the Senate on Saturday, May 30, 2009.

On motion of Senator Deuell, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

SENATE RESOLUTION 1077

Senator Shapiro offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 81st Legislature, Regular Session, 2009, 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 1742** (the regulation of the discharge of firearms and certain other weapons by certain municipalities) to consider and take action on the following matters:

(1) Senate Rules 12.03(1), (2), and (3) are suspended to permit the committee to change text not in disagreement and to add text in proposed Subdivisions (1) and (2), Subsection (b), Section 229.003, Local Government Code, so that the subdivisions read as follows:

(1) a shotgun, air rifle or pistol, BB gun, or bow and arrow discharged:

(A) on a tract of land of 10 acres or more and:

(i) more than 1,000 feet from:

(a) the property line of a public tract of land, generally accessible by the public, that is routinely used for organized sporting or recreational activities or that has permanent recreational facilities or equipment; and

(b) the property line of a school, hospital, or commercial day-care facility;

(ii) more than 600 feet from:

(a) the property line of a residential subdivision; and

(b) the property line of a multifamily residential complex; and

(iii) more than 150 feet from a residence or occupied building located on another property; and

(B) in a manner not reasonably expected to cause a projectile to cross the boundary of the tract;

(2) a center fire or rim fire rifle or pistol of any caliber discharged:

(A) on a tract of land of 50 acres or more and:

(i) more than 1,000 feet from:

(a) the property line of a public tract of land, generally accessible by the public, that is routinely used for organized sporting or recreational activities or that has permanent recreational facilities or equipment; and

(b) the property line of a school, hospital, or commercial day-care facility;

(ii) more than 600 feet from:

(a) the property line of a residential subdivision; and

(b) the property line of a multifamily residential complex; and

(iii) more than 300 feet from a residence or occupied building located on another property; and

(B) in a manner not reasonably expected to cause a projectile to cross the boundary of the tract; or

Explanation: The changes in text are necessary to limit the areas in which certain municipalities can regulate the discharge of certain weapons. The additions are necessary to include the areas around schools, hospitals, and commercial day-care facilities in the areas in which certain municipalities can regulate the discharge of certain weapons.

(2) Senate Rule 12.03(2) is suspended to permit the committee to omit text not in disagreement in proposed Subsection (c), Section 229.003, Local Government Code, in the house version of the bill and in proposed Subsection (b), Section 229.002, Local Government Code, in the senate version of the bill, that reads as follows:

A municipality may adopt and enforce a regulation prohibiting or restricting excessive noise from the discharge of a firearm in the extraterritorial jurisdiction of the municipality or in an area annexed by the municipality after September 1, 1981.

Explanation: This omission is necessary so that the Act does not permit certain municipalities to adopt and enforce a regulation prohibiting or restricting excessive noise from the discharge of a firearm in certain areas.

SR 1077 was read and was adopted without objection.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 1742 ADOPTED

Senator Shapiro called from the President's table the Conference Committee Report on **SB 1742**. The Conference Committee Report was filed with the Senate on Saturday, May 30, 2009.

On motion of Senator Shapiro, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

SENATE RESOLUTION 1099

Senator Watson offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 81st Legislature, Regular Session, 2009, 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 1796** (the development of carbon dioxide capture and sequestration in this state) to consider and take action on the following matter:

Senate Rules 12.03(3) and (4) are suspended to permit the committee to add text on a matter not in disagreement and not included in either the house or senate version of the bill by adding the following SECTION to the bill:

SECTION 30. The purpose of the changes in law made by this Act is to encourage the development of onshore and offshore geologic storage of carbon dioxide including by encouraging the development of advanced clean energy projects that capture carbon dioxide and sequester not less than 50 percent of the captured carbon dioxide in onshore or offshore geologic repositories. Securing the necessary capacity for geologic sequestration is essential to the success of carbon capture strategies, such as the advanced clean energy projects facilitated by the changes in law made by this Act. The success of the offshore repositories facilitated by this Act depends on an adequate supply of anthropogenic carbon dioxide, which is not currently being captured at industrial facilities in this state. The advanced clean energy grants established in this Act are intended to create the supply of anthropogenic carbon dioxide necessary to the success of the offshore repositories facilitated by this Act.

Explanation: The added language is necessary to clarify the purpose of the provisions of the bill.

SR 1099 was read and was adopted without objection.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 1796 ADOPTED**

Senator Watson called from the President's table the Conference Committee Report on **HB 1796**. The Conference Committee Report was filed with the Senate on Saturday, May 30, 2009.

On motion of Senator Watson, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

SENATE RESOLUTION 1103

Senator Carona offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 81st Legislature, Regular Session, 2009, 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 1831**, relating to disaster preparedness and emergency management and to certain vehicles used in emergencies, to consider and take action on the following matter:

(1) Senate Rule 12.03(4) is suspended to permit the committee to add the following text to SECTION 1.20 of the bill:

(13-a) "Police vehicle" means a vehicle ~~[of a governmental entity primarily]~~ used by a peace officer, as defined by Article 2.12, Code of Criminal Procedure, for law enforcement purposes that:

(A) is owned or leased by a governmental entity;

(B) is owned or leased by the police department of a private institution of higher education that commissions peace officers under Section 51.212, Education Code; or

(C) is:

(i) a private vehicle owned or leased by the peace officer; and

(ii) approved for use for law enforcement purposes by the head of the law enforcement agency that employs the peace officer, or by that person's designee, provided that use of the private vehicle must, if applicable, comply with any rule adopted by the commissioners court of a county under Section 170.001, Local Government Code, and that the private vehicle may not be considered an authorized emergency vehicle for exemption purposes under Section 228.054, 284.070, 366.178, or 370.177, Transportation Code, unless the vehicle is marked.

Explanation: This change is necessary to ensure that a private vehicle is marked in order to qualify for an exemption as an authorized emergency vehicle.

(2) Senate Rule 12.03(4) is suspended to permit the committee to add the following text to ARTICLE 6 of the bill:

SECTION 6.01. The heading to Section 37.108, Education Code, is amended to read as follows:

Sec. 37.108. MULTHAZARD EMERGENCY OPERATIONS PLAN; SAFETY AND SECURITY AUDIT.

SECTION 6.02. Section 37.108, Education Code, is amended by amending Subsections (a), (b), and (c) and adding Subsections (c-1) and (c-2) to read as follows:

(a) Each school district or public junior college district shall adopt and implement a multihazard emergency operations plan for use in the district's facilities [~~district schools~~]. The plan must address mitigation, preparedness, response, and recovery as defined by the commissioner of education or commissioner of higher education in conjunction with the governor's office of homeland security. The plan must provide for:

- (1) district employee training in responding to an emergency;
- (2) if the plan applies to a school district, mandatory school drills and exercises to prepare district students and employees for responding to an emergency;
- (3) measures to ensure coordination with the Department of State Health Services and local emergency management agencies, law enforcement, health departments, and fire departments in the event of an emergency; and
- (4) the implementation of a safety and security audit as required by Subsection (b).

(b) At least once every three years, each [a] school district or public junior college district shall conduct a safety and security audit of the district's facilities. To the extent possible, a district shall follow safety and security audit procedures developed by the Texas School Safety Center or a comparable public or private entity.

(c) A school district or public junior college district shall report the results of the safety and security audit conducted under Subsection (b) to the district's board of trustees and, in the manner required by the Texas School Safety Center, to the Texas School Safety Center.

SECTION 6.03. Subchapter D, Chapter 37, Education Code, is amended by adding Section 37.109 to read as follows:

Sec. 37.109. SCHOOL SAFETY AND SECURITY COMMITTEE. (a) In accordance with guidelines established by the Texas School Safety Center, each school district shall establish a school safety and security committee.

(b) The committee shall:

(1) participate on behalf of the district in developing and implementing emergency plans consistent with the district multihazard emergency operations plan required by Section 37.108(a) to ensure that the plans reflect specific campus, facility, or support services needs;

(2) provide the district with any campus, facility, or support services information required in connection with a safety and security audit required by Section 37.108(b), a safety and security audit report required by Section 37.108(c), or another report required to be submitted by the district to the Texas School Safety Center; and

(3) review each report required to be submitted by the district to the Texas School Safety Center to ensure that the report contains accurate and complete information regarding each campus, facility, or support service in accordance with criteria established by the center.

SECTION 6.04. Section 37.202, Education Code, is amended to read as follows:

Sec. 37.202. PURPOSE. The purpose of the center is to serve as:

(1) a central location for school safety and security information, including research, training, and technical assistance related to successful school safety and security programs; ~~and~~

(2) a central registry of persons providing school safety and security consulting services in the state; and

(3) a resource for the prevention of youth violence and the promotion of safety in the state.

SECTION 6.05. Section 37.203(a), Education Code, as amended by Chapters 258 (S.B. 11) and 263 (S.B. 103), Acts of the 80th Legislature, Regular Session, 2007, is reenacted to read as follows:

(a) The center is advised by a board of directors composed of:

(1) the attorney general, or the attorney general's designee;

(2) the commissioner, or the commissioner's designee;

(3) the executive director of the Texas Juvenile Probation Commission, or the executive director's designee;

(4) the executive commissioner of the Texas Youth Commission, or the executive commissioner's designee;

(5) the commissioner of the Department of State Health Services, or the commissioner's designee;

(6) the commissioner of higher education, or the commissioner's designee; and

(7) the following members appointed by the governor with the advice and consent of the senate:

(A) a juvenile court judge;

(B) a member of a school district's board of trustees;

(C) an administrator of a public primary school;

(D) an administrator of a public secondary school;

(E) a member of the state parent-teacher association;

(F) a teacher from a public primary or secondary school;

(G) a public school superintendent who is a member of the Texas Association of School Administrators;

(H) a school district police officer or a peace officer whose primary duty consists of working in a public school; and

(I) two members of the public.

SECTION 6.06. Section 37.203(b), Education Code, is amended to read as follows:

(b) Members of the board appointed under Subsection (a)(7) ~~[(a)(6)]~~ serve staggered two-year terms, with the terms of the members described by Subsections (a)(7)(A)-(E) ~~[(a)(6)(A)-(E)]~~ expiring on February 1 of each odd-numbered year and the terms of the members described by Subsections (a)(7)(F)-(I) ~~[(a)(6)(F)-(I)]~~ expiring on February 1 of each even-numbered year. A member may serve more than one term.

SECTION 6.07. Section 37.207(a), Education Code, is amended to read as follows:

(a) The center shall develop a model safety and security audit procedure for use by school districts and public junior college districts that includes:

(1) providing each district with guidelines ~~[and a training video]~~ showing proper audit procedures;

(2) reviewing elements of each district audit~~[, providing the results of the review to the district,]~~ and making recommendations for improvements in the state based on that review ~~[the audit]~~; and

(3) incorporating the findings of district audits in a statewide report on school safety and security made available by the center to the public.

SECTION 6.08. Section 37.209, Education Code, is amended to read as follows:

Sec. 37.209. CENTER WEBSITE. The center shall develop and maintain an interactive Internet website that includes:

(1) quarterly news updates related to school safety and security and violence prevention;

(2) school crime data;

(3) a schedule of training and special events; and

(4) a list of persons who ~~[approved by the board to]~~ provide school safety or security consulting services in this state and are registered in accordance with Section 37.2091 ~~[presentations]~~.

SECTION 6.09. Subchapter G, Chapter 37, Education Code, is amended by adding Sections 37.2091 and 37.2121 to read as follows:

Sec. 37.2091. REGISTRY OF PERSONS PROVIDING SCHOOL SAFETY OR SECURITY CONSULTING SERVICES. (a) In this section, "school safety or security consulting services" includes any service provided to a school district, institution of higher education, district facility, or campus by a person consisting of advice, information, recommendations, data collection, or safety and security audit services relevant to school safety and security, regardless of whether the person is paid for those services.

(b) The center shall establish a registry of persons providing school safety or security consulting services in this state.

(c) Each person providing school safety or security consulting services in this state shall register with the center in accordance with requirements established by the center. The requirements must include provisions requiring a person registering with the center to provide information regarding:

(1) the person's background, education, and experience that are relevant to the person's ability to provide knowledgeable and effective school safety or security consulting services; and

(2) any complaints or pending litigation relating to the person's provision of school safety or security consulting services.

(d) The registry is intended to serve only as an informational resource for school districts and institutions of higher education. The inclusion of a person in the registry is not an indication of the person's qualifications or ability to provide school safety or security consulting services or that the center endorses the person's school safety or security consulting services.

(e) The center shall include information regarding the registry, including the number of persons registered and the general degree of school safety or security experience possessed by those persons, in the biennial report required by Section 37.216.

Sec. 37.2121. MEMORANDA OF UNDERSTANDING AND MUTUAL AID AGREEMENTS. (a) The center shall identify and inform school districts of the types of entities, including local and regional authorities, other school districts, and emergency first responders, with whom school districts should customarily make efforts to enter into memoranda of understanding or mutual aid agreements addressing issues that affect school safety and security.

(b) The center shall develop guidelines regarding memoranda of understanding and mutual aid agreements between school districts and the entities identified in accordance with Subsection (a). The guidelines:

(1) must include descriptions of the provisions that should customarily be included in each memorandum or agreement with a particular type of entity;

(2) may include sample language for those provisions; and

(3) must be consistent with the Texas Statewide Mutual Aid System established under Subchapter E-1, Chapter 418, Government Code.

(c) The center shall encourage school districts to enter into memoranda of understanding and mutual aid agreements with entities identified in accordance with Subsection (a) that comply with the guidelines developed under Subsection (b).

(d) Each school district that enters into a memorandum of understanding or mutual aid agreement addressing issues that affect school safety and security shall, at the center's request, provide the following information to the center:

(1) the name of each entity with which the school district has entered into a memorandum of understanding or mutual aid agreement;

(2) the effective date of each memorandum or agreement; and

(3) a summary of each memorandum or agreement.

(e) The center shall include information regarding the center's efforts under this section in the report required by Section 37.216.

SECTION 6.10. Section 37.213, Education Code, is amended to read as follows:

Sec. 37.213. PUBLIC JUNIOR COLLEGES [~~INSTITUTIONS OF HIGHER EDUCATION~~]. (a) In this section, "public junior college" [~~"institution of higher education"~~] has the meaning assigned by Section 61.003.

(b) The center shall research best practices regarding emergency preparedness of public junior colleges and serve as a clearinghouse for that information.

(c) The center shall provide public junior colleges with training, technical assistance, and published guidelines or templates, as appropriate, in the following areas:

(1) multihazard emergency operations plan development;

(2) drill and exercise development and implementation;
(3) mutual aid agreements;
(4) identification of equipment and funds that may be used by public junior colleges in an emergency; and

(5) reporting in accordance with 20 U.S.C. Section 1092(f) [An institution of higher education may use any appropriate model plan developed by the center under Section 37.205(4)].

~~[(c) The center may provide an institution of higher education with on site technical assistance and safety training.~~

~~[(d) The center may charge a fee to an institution of higher education for assistance and training provided under Subsection (c)].~~

SECTION 6.11. Section 37.216, Education Code, is amended to read as follows:

Sec. 37.216. BIENNIAL [ANNUAL] REPORT. (a) Not later than January [September] 1 of each odd-numbered year, the board shall provide a report to the governor, the legislature, the State Board of Education, and the agency.

(b) The biennial [annual] report must include any findings made by the center regarding school safety and security and the center's functions, budget information, and strategic planning initiatives of the center.

SECTION 6.12. Subchapter G, Chapter 37, Education Code, is amended by adding Section 37.2161 to read as follows:

Sec. 37.2161. SCHOOL SAFETY AND SECURITY PROGRESS REPORT.

(a) The center shall periodically provide a school safety and security progress report to the governor, the legislature, the State Board of Education, and the agency that contains current information regarding school safety and security in the school districts and public junior college districts of this state based on:

(1) elements of each district's multihazard emergency operations plan required by Section 37.108(a);

(2) elements of each district's safety and security audit required by Section 37.108(b); and

(3) any other report required to be submitted to the center.

(b) The center shall establish guidelines regarding the specific information to be included in the report required by this section.

(c) The center may provide the report required by this section in conjunction with the report required by Section 37.216.

SECTION 6.13. Subchapter E, Chapter 51, Education Code, is amended by adding Section 51.217 to read as follows:

Sec. 51.217. MULTHAZARD EMERGENCY OPERATIONS PLAN; SAFETY AND SECURITY AUDIT. (a) In this section, "institution" means a general academic teaching institution, a medical and dental unit, or other agency of higher education, as those terms are defined by Section 61.003.

(b) An institution shall adopt and implement a multihazard emergency operations plan for use at the institution. The plan must address mitigation, preparedness, response, and recovery. The plan must provide for:

(1) employee training in responding to an emergency;

(2) mandatory drills to prepare students, faculty, and employees for responding to an emergency;

(3) measures to ensure coordination with the Department of State Health Services, local emergency management agencies, law enforcement, health departments, and fire departments in the event of an emergency; and

(4) the implementation of a safety and security audit as required by Subsection (c).

(c) At least once every three years, an institution shall conduct a safety and security audit of the institution's facilities. To the extent possible, an institution shall follow safety and security audit procedures developed in consultation with the division of emergency management of the office of the governor.

(d) An institution shall report the results of the safety and security audit conducted under Subsection (c) to the institution's board of regents and the division of emergency management of the office of the governor.

(e) Except as provided by Subsection (f), any document or information collected, developed, or produced during a safety and security audit conducted under Subsection (c) is not subject to disclosure under Chapter 552, Government Code.

(f) A document relating to an institution's multihazard emergency operations plan is subject to disclosure if the document enables a person to:

(1) verify that the institution has established a plan and determine the agencies involved in the development of the plan and the agencies coordinating with the institution to respond to an emergency, including the Department of State Health Services, local emergency services agencies, law enforcement agencies, health departments, and fire departments;

(2) verify that the institution's plan was reviewed within the last 12 months and determine the specific review dates;

(3) verify that the plan addresses the four phases of emergency management under Subsection (b);

(4) verify that institution employees have been trained to respond to an emergency and determine the types of training, the number of employees trained, and the person conducting the training;

(5) verify that each campus has conducted mandatory emergency drills and exercises in accordance with the plan and determine the frequency of the drills;

(6) verify that the institution has completed a safety and security audit under Subsection (c) and determine the date the audit was conducted, the person conducting the audit, and the date the institution presented the results of the audit to the board of regents; and

(7) verify that the institution has addressed any recommendations by the board of regents for improvement of the plan and determine the institution's progress within the last 12 months.

SECTION 6.13a. Chapter 111, Education Code, is amended by adding Subchapter I to read as follows:

SUBCHAPTER I. UNIVERSITY OF HOUSTON HURRICANE CENTER FOR
INNOVATIVE TECHNOLOGY

Sec. 111.121. DEFINITIONS. In this subchapter:

(1) "Board" means the board of regents of the University of Houston System.

(2) "Center" means the University of Houston Hurricane Center for Innovative Technology (UHC-IT) established under this subchapter.

Sec. 111.122. ESTABLISHMENT. (a) The University of Houston Hurricane Center for Innovative Technology is established at the University of Houston.

(b) The organization, control, and management of the center are vested in the board.

(c) The center shall be hosted by the university's College of Engineering. Participation in the center's activities shall be open to any faculty member of the university who is an active researcher in the field of materials, nanotechnology, structural engineering, designing of structures, or sensor technology, or in another relevant field as determined by the university.

Sec. 111.123. PURPOSE. The center is created to:

(1) promote interdisciplinary research, education, and training for the development of state-of-the-art products, materials, systems, and technologies designed to mitigate the wind, and asserted structural damages in the built environment and offshore structures caused by hurricanes in the Gulf Coast region; and

(2) develop protocols for the fast and efficient recovery of the public and private sectors, including utilities, hospitals, petrochemical industries, offshore platforms, and municipalities and other local communities following a hurricane.

Sec. 111.124. POWERS AND DUTIES. The center shall:

(1) collaborate with appropriate federal, state, and local agencies and private business or nonprofit entities as necessary to coordinate efforts after a hurricane in the Gulf Coast region;

(2) develop smart materials and devices for use in hurricane protection and mitigation systems for structural monitoring;

(3) develop anchor systems for window and door screens, dwellings and other buildings, pipelines, and other onshore and offshore structures to withstand hurricane wind damage;

(4) develop test facilities for evaluating the performance of new products, materials, or techniques designed to protect against hurricane wind damage;

(5) develop specifications and standards for products used for protecting against hurricane wind damage;

(6) design buildings, houses, and other structures to withstand hurricane wind damage; and

(7) provide hurricane-related educational programs, seminars, conferences, and workshops to the community designed to ensure safety, minimize loss of life, and mitigate the destruction of property associated with hurricane wind damage.

Sec. 111.125. COLLABORATION WITH OTHER ENTITIES. The University of Houston shall encourage public and private entities to participate in or support the operation of the center and may enter into an agreement with any public or private entity for that purpose. An agreement may allow the center to provide information, services, or other assistance to an entity in exchange for the entity's participation or support.

Sec. 111.126. GIFTS AND GRANTS. The board may solicit, accept, and administer gifts and grants from any public or private source and use existing resources for the purposes of the center. State funding is not available unless the legislature makes specific appropriation for this purpose.

Sec. 111.127. PERSONNEL. The board may employ personnel for the center as necessary.

SECTION 6.14. Section 418.004(10), Government Code, is amended to read as follows:

(10) "Local government entity" means a county, incorporated city, independent school district, public junior college district, emergency services district, other special district, joint board, or other entity defined as a political subdivision under the laws of this state that maintains the capability to provide mutual aid.

SECTION 6.15. Section 37.210, Education Code, is repealed.

SECTION 6.17. A person providing school safety or security consulting services in this state shall comply with Section 37.2091, Education Code, as added by this article, not later than January 1, 2010.

SECTION 6.18. This article does not make an appropriation. A provision in this article that creates a new governmental program, creates a new entitlement, or imposes a new duty on a governmental entity is not mandatory during a fiscal period for which the legislature has not made a specific appropriation to implement the provision.

SECTION 6.19. This article takes effect September 1, 2009.

Explanation: This change is necessary to require public junior college districts to adopt and implement a multihazard emergency operation plan, to establish school safety and security committees, and to establish the University of Houston Hurricane Center for Innovative Technology.

(3) Senate Rule 12.03(1) is suspended to permit the committee to change text that is not in disagreement in SECTION 6.16 of the bill so that section reads as follows:

SECTION 6.16. Sections 37.108(c-1) and (c-2), and Sections 51.217(d) and (e), Education Code, as added by this article, apply only to a request for documents or information that is received on or after the effective date of this article. A request for documents or information that was received before the effective date of this article is governed by the law in effect on the date the request was received, and the former law is continued in effect for that purpose.

Explanation: This change is necessary to add a cross-reference to Subsections (d) and (e), Section 51.217, Education Code, to the transition provisions of the bill.

SR 1103 was read and was adopted without objection.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1831 ADOPTED

Senator Carona called from the President's table the Conference Committee Report on **HB 1831**. The Conference Committee Report was filed with the Senate on Saturday, May 30, 2009.

On motion of Senator Carona, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 1.

Nays: Hegar.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 1322 ADOPTED**

Senator Watson called from the President's table the Conference Committee Report on **HB 1322**. The Conference Committee Report was filed with the Senate on Saturday, May 30, 2009.

On motion of Senator Watson, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 2440 ADOPTED**

Senator Uresti called from the President's table the Conference Committee Report on **SB 2440**. The Conference Committee Report was filed with the Senate on Saturday, May 30, 2009.

On motion of Senator Uresti, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 635 ADOPTED**

Senator Zaffirini called from the President's table the Conference Committee Report on **HB 635**. The Conference Committee Report was filed with the Senate on Saturday, May 30, 2009.

On motion of Senator Zaffirini, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER
Austin, Texas
June 1, 2009

The Honorable President of the Senate
Senate Chamber
Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

HCR 127, Designating October 25 to 31, 2009, as Disability Awareness Week in Texas.

HCR 164, Designating April 21, 2009, as Delta County Day at the State Capitol.

HCR 175, Recognizing March 25, 2009, as Mount Pleasant Day at the State Capitol.

HCR 272, In memory of Charlene Champion of Paris, Texas.

HCR 273, In memory of David Charles Buster of Caviness.

HCR 275, In memory of Albert A. "Tootie" Anderson of Roxton.

HCR 276, In memory of LuLane Caraway of Paris, Texas.

HCR 277, In memory of Helen Louise Whitney of Paris, Texas.

HCR 278, In memory of Mary Ellen Border Tubbs McDowell.

HCR 279, Honoring Gary K. Trietsch of Houston for his more than 40 years of exemplary service with the Texas Department of Transportation.

HCR 280, Instructing the enrolling clerk of the house to make corrections in H.B. No. 3613.

HCR 281, In memory of Tye James Parrish.

HCR 282, Instructing the enrolling clerk of the house to make corrections in H.B. 3485.

HCR 283, Instructing the enrolling clerk of the house to make corrections in H.B. No. 3.

HCR 284, Instructing the enrolling clerk of the house to make corrections in H.B. 2488.

HCR 285, Instructing the enrolling clerk of the house to make corrections in H.J.R. No. 14.

HCR 286, Instructing the enrolling clerk of the house to make corrections in H.B. No. 1831.

HCR 287, Instructing the enrolling clerk of the house to make corrections in H.B. No. 4409.

HCR 288, Directing the governing boards of general academic teaching institutions to limit increases in total academic costs charged to resident undergraduate students for certain school years.

HCR 292, Instructing the enrolling clerk of the house to make corrections in H.B. No. 2559.

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

CONFERENCE COMMITTEE REPORT ON SENATE BILL 1970 ADOPTED

Senator Duncan called from the President's table the Conference Committee Report on **SB 1970**. The Conference Committee Report was filed with the Senate on Sunday, May 31, 2009.

On motion of Senator Duncan, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 1.

Nays: Patrick.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 1935 ADOPTED**

Senator Duncan called from the President's table the Conference Committee Report on **HB 1935**. The Conference Committee Report was filed with the Senate on Saturday, May 30, 2009.

On motion of Senator Duncan, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

**CONFERENCE COMMITTEE ON
SENATE BILL 636 DISCHARGED**

On motion of Senator Seliger and by unanimous consent, the Senate conferees on **SB 636** were discharged.

Question — Shall the Senate concur in the House amendments to **SB 636**?

Senator Seliger moved to concur in the House amendments to **SB 636**.

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

**CONFERENCE COMMITTEE ON
SENATE BILL 2314 DISCHARGED**

On motion of Senator Averitt and by unanimous consent, the Senate conferees on **SB 2314** were discharged.

Question — Shall the Senate concur in the House amendment to **SB 2314**?

Senator Averitt moved to concur in the House amendment to **SB 2314**.

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

**CONFERENCE COMMITTEE ON
SENATE BILL 1620 DISCHARGED**

On motion of Senator Wentworth and by unanimous consent, the Senate conferees on **SB 1620** were discharged.

Question — Shall the Senate concur in the House amendment to **SB 1620**?

Senator Wentworth moved to concur in the House amendment to **SB 1620**.

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

**CONFERENCE COMMITTEE ON
SENATE BILL 297 DISCHARGED**

On motion of Senator Van de Putte and by unanimous consent, the Senate conferees on **SB 297** were discharged.

Question — Shall the Senate concur in the House amendments to **SB 297**?

Senator Van de Putte moved to concur in the House amendments to **SB 297**.

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

HOUSE CONCURRENT RESOLUTION 283

The Presiding Officer, Senator Eltife in Chair, laid before the Senate the following resolution:

WHEREAS, The conference committee report for **HB 3** has been adopted by the house of representatives and the senate and is being prepared for enrollment; and

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

RESOLVED by the 81st Legislature of the State of Texas, That the enrolling clerk of the house of representatives be instructed to make the following corrections:

(1) On page 25, line 12, strike "39.301(b)(4)" and substitute "39.301(c)(5)".

(2) Strike page 27, line 26, through page 28, line 3, and substitute the following:

(n) A student who is promoted by a grade placement committee under this section must be assigned in each subject in which the student failed to perform satisfactorily on an assessment instrument specified under Subsection (a) to a teacher who meets all state and federal qualifications to teach that subject and grade.

(3) On page 28, line 6, strike "(b-3), (b-4), (b-5), (b-6), (b-7), and (b-8)" and substitute "(b-3) through (b-10)".

(4) On page 30, strike lines 7-23 and substitute the following:

(b-3) In adopting rules to provide students with the option described by Subsection (b-1)(1)(A), the State Board of Education must approve a variety of mathematics and science courses that may be taken after the completion of Algebra II and physics to comply with the recommended program requirements.

(b-4) A school district may offer the curriculum described in Subsection (b-1)(1)(A) in an applied manner. Courses delivered in an applied manner must cover the essential knowledge and skills, and the student shall be administered the applicable end-of-course assessment instrument as provided by Sections 39.023(c) and 39.025.

(b-5) A school district may offer a mathematics or science course to be taken by a student after completion of Algebra II and physics to comply with the recommended program requirements in Subsection (b-1)(1)(A). A course approved under this subsection must be endorsed by an institution of higher education as a course for which the institution would award course credit or as a prerequisite for a course for which the institution would award course credit.

(5) On page 30, line 24, strike "(b-4)" and substitute "(b-6)".

(6) On page 31, line 8, strike "(b-5)" and substitute "(b-7)".

(7) On page 31, line 17, strike "(b-6)" and substitute "(b-8)".

(8) On page 31, line 21, strike "(b-7)" and substitute "(b-9)".

(9) On page 32, line 5, strike "(b-8)" and substitute "(b-10)".

(10) On page 69, lines 16-22, strike "subchapter. If the district received an accreditation status of accredited-warned or accredited-probation for the preceding school year or if any campus performed below a standard required under this subchapter in the preceding school year, the commissioner shall notify the district or campus of a subsequent such designation on or before June 15" and substitute "subchapter".

(11) On page 77, line 16, between "year" and "the", insert a comma.

(12) On page 106, line 8, strike "compare" and substitute "a comparison of".

(13) On page 125, line 23, strike "ELIGIBILITY FOR DISTINCTION DESIGNATION. (a)" and substitute "DISTINCTION DESIGNATIONS."

(14) On page 126, strike lines 2-24.

(15) On page 126, line 26, strike "(a) The commissioner shall award a".

(16) Strike page 126, line 27, through page 127, line 3.

(17) On page 127, strike lines 4-11 and substitute the following:

The commissioner by rule shall establish a recognized and exemplary rating for awarding districts and campuses an academic distinction designation under this subchapter. In establishing the recognized and exemplary ratings, the commissioner shall adopt criteria for the ratings, including:

(1) percentages of students who:

(A) performed satisfactorily, as determined under the college readiness performance standard under Section 39.0241, on assessment instruments required under Section 39.023(a), (b), (c), or (l), aggregated across grade levels by subject area;
or

(B) met the standard for annual improvement, as determined by the agency under Section 39.034, on assessment instruments required under Section 39.023(a), (b), (c), or (l), aggregated across grade levels by subject area, for students who did not perform satisfactorily as described by Paragraph (A); and

(2) other factors for determining sufficient student attainment of postsecondary readiness.

(18) On page 141, line 6, strike "instruments" and substitute "instrument".

(19) On page 158, lines 12-14, strike "accreditation status [performance rating] of the district[~~— as determined~~]" under Section 39.052 [39.072]" and substitute "accreditation status and performance rating of the district[~~— as determined~~]" under Sections 39.052 and 39.054 [Section 39.072]".

(20) On page 168, line 19, strike "developed".

(21) On page 178, line 7, strike "28.002(c-3)" and substitute "28.002(c-1)".

(22) On page 178, line 9, between "39.023(e)" and "and", insert ", Education Code, as amended by this Act".

(23) On page 178, line 10, strike "amended" and substitute "added".

(24) On page 178, strike lines 11-13.

(25) On page 178, line 14, strike "(d)" and substitute "(c)".

(26) On page 178, line 17, strike "(e)" and substitute "(d)".

(27) On page 178, line 17, strike "Subsection (f)" and substitute "Subsection (e)".

(28) On page 178, line 22, strike "(f)" and substitute "(e)".

SHAPIRO

HCR 283 was read.

On motion of Senator Shapiro, the resolution was considered immediately and was adopted by the following vote: Yeas 31, Nays 0.

SENATE RESOLUTION 1101

Senator Nelson offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 81st Legislature, Regular Session, 2009, 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 78**, relating to promoting awareness and education about the purchase and availability of health coverage, to consider and take action on the following matter:

Senate Rule 12.03(4) is suspended to permit the committee to add text that is not in disagreement to Subtitle G, Title 8, Insurance Code, by adding Chapter 1508 to read as follows:

ARTICLE 2. HEALTHY TEXAS PROGRAM

SECTION 2.01. Subtitle G, Title 8, Insurance Code, is amended by adding Chapter 1508 to read as follows:

CHAPTER 1508. HEALTHY TEXAS PROGRAM**SUBCHAPTER A. GENERAL PROVISIONS**

Sec. 1508.001. PURPOSE. (a) The purposes of the Healthy Texas Program are to:

(1) provide access to quality small employer health benefit plans at an affordable price;

(2) encourage small employers to offer health benefit plan coverage to employees and the dependents of employees; and

(3) maximize reliance on proven managed care strategies and procedures.

(b) The Healthy Texas Program is not intended to diminish the availability of traditional small employer health benefit plan coverage under Chapter 1501.

Sec. 1508.002. DEFINITIONS. In this chapter:

(1) "Dependent" has the meaning assigned by Section 1501.002(2).

(2) "Eligible employee" has the meaning assigned by Section 1501.002(3).

(3) "Fund" means the healthy Texas small employer premium stabilization fund established under Subchapter F.

(4) "Health benefit plan" and "health benefit plan issuer" have the meanings assigned by Sections 1501.002(5) and 1501.002(6), respectively.

(5) "Program" means the Healthy Texas Program established under this chapter.

(6) "Qualifying health benefit plan" means a health benefit plan that provides benefits for health care services in the manner described by this chapter.

(7) "Small employer" has the meaning assigned by Section 1501.002(14).

Sec. 1508.003. RULES. The commissioner may adopt rules as necessary to implement this chapter.

[Sections 1508.004-1508.050 reserved for expansion]

SUBCHAPTER B. EMPLOYER ELIGIBILITY; CONTRIBUTIONS

Sec. 1508.051. EMPLOYER ELIGIBILITY TO PARTICIPATE. (a) A small employer may participate in the program if:

(1) during the 12-month period immediately preceding the date of application for a qualifying health benefit plan, the small employer does not offer employees group health benefits on an expense-reimbursed or prepaid basis; and

(2) at least 30 percent of the small employer's eligible employees receive annual wages from the employer in an amount that is equal to or less than 300 percent of the poverty guidelines for an individual, as defined and updated annually by the United States Department of Health and Human Services.

(b) A small employer ceases to be eligible to participate in the program if any health benefit plan that provides employee benefits on an expense-reimbursed or prepaid basis, other than another qualifying health benefit plan, is purchased or otherwise takes effect after the purchase of a qualifying health benefit plan.

Sec. 1508.052. COMMISSIONER ADJUSTMENTS AUTHORIZED. (a) The commissioner by rule may adjust the 12-month period described by Section 1508.051(a)(1) to an 18-month period if the commissioner determines that the 12-month period is insufficient to prevent inappropriate substitution of other health benefit plans for qualifying health benefit plan coverage under this chapter.

(b) The commissioner by rule may adjust the percentage of the poverty guidelines described by Section 1508.051(a)(2) to a higher or lower percentage if the commissioner determines that the adjustment is necessary to fulfill the purposes of this chapter. An adjustment made by the commissioner under this subsection takes effect on the first July 1 following the adjustment.

Sec. 1508.053. MINIMUM EMPLOYER PARTICIPATION REQUIREMENTS. A small employer that meets the eligibility requirements described by Section 1508.051(a) may apply to purchase a qualifying health benefit plan if 60 percent or more of the employer's eligible employees elect to participate in the plan.

Sec. 1508.054. EMPLOYER CONTRIBUTION REQUIREMENTS. (a) A small employer that purchases a qualifying health benefit plan must:

(1) pay 50 percent or more of the premium for each employee covered under the qualifying health benefit plan;

(2) offer coverage to all eligible employees receiving annual wages from the employer in an amount described by Section 1508.051(a)(2) or 1508.052(b), as applicable; and

(3) contribute the same percentage of premium for each covered employee.

(b) A small employer that purchases a qualifying health benefit plan under the program may elect to pay, but is not required to pay, all or any portion of the premium paid for dependent coverage under the qualifying health benefit plan.

[Sections 1508.055-1508.100 reserved for expansion]

SUBCHAPTER C. PROGRAM PARTICIPATION; REQUIRED COVERAGE AND BENEFITS

Sec. 1508.101. PARTICIPATING PLAN ISSUERS. (a) Subject to Subsection (b), any health benefit plan issuer may participate in the program.

(b) The commissioner by rule may limit which health benefit plan issuers may participate in the program if the commissioner determines that the limitation is necessary to achieve the purposes of this chapter.

(c) If the commissioner limits participation in the program under Subsection (b), the commissioner shall contract on a competitive procurement basis with one or more health benefit plan issuers to provide qualifying health benefit plan coverage under the program.

(d) Nothing in this chapter prohibits a regional or local health care program described by Chapter 75, Health and Safety Code, from participating in the program. The commissioner by rule shall establish participation requirements applicable to regional and local health care programs that consider the unique plan designs, benefit levels, and participation criteria of each program.

Sec. 1508.102. PREEXISTING CONDITION PROVISION REQUIRED. A health benefit plan offered under the program must include a preexisting condition provision that meets the requirements described by Section 1501.102.

Sec. 1508.103. EXCEPTION FROM MANDATED BENEFIT REQUIREMENTS. Except as expressly provided by this chapter, a small employer health benefit plan issued under the program is not subject to a law of this state that requires coverage or the offer of coverage of a health care service or benefit.

Sec. 1508.104. CERTAIN COVERAGE PROHIBITED OR REQUIRED. (a) A qualifying health benefit plan may only provide coverage for in-plan services and benefits, except for:

(1) emergency care; or

(2) other services not available through a plan provider.

(b) In-plan services and benefits provided under a qualifying health benefit plan must include the following:

(1) inpatient hospital services;

(2) outpatient hospital services;

(3) physician services; and

(4) prescription drug benefits.

(c) The commissioner may approve in-plan benefits other than those required under Subsection (b) or emergency care or other services not available through a plan provider if the commissioner determines the inclusion to be essential to achieve the purposes of this chapter.

(d) The commissioner may, with respect to the categories of services and benefits described by Subsections (b) and (c):

(1) prepare specifications for a coverage provided under this chapter;

(2) determine the methods and procedures of claims administration;

(3) establish procedures to decide contested cases arising from coverage provided under this chapter;

(4) study, on an ongoing basis, the operation of all coverages provided under this chapter, including gross and net costs, administration costs, benefits, utilization of benefits, and claims administration;

(5) administer the healthy Texas small employer premium stabilization fund established under Subchapter F;

(6) provide the beginning and ending dates of coverages for enrollees in a qualifying health benefit plan;

(7) develop basic group coverage plans applicable to all individuals eligible to participate in the program;

(8) provide for optional group coverage plans in addition to the basic group coverage plans described by Subdivision (7);

(9) provide, as determined to be appropriate by the commissioner, additional statewide optional coverage plans;

(10) develop specific health benefit plans that permit access to high-quality, cost-effective health care;

(11) design, implement, and monitor health benefit plan features intended to discourage excessive utilization, promote efficiency, and contain costs for qualifying health benefit plans;

(12) develop and refine, on an ongoing basis, a health benefit strategy for the program that is consistent with evolving benefits delivery systems;

(13) develop a funding strategy that efficiently uses employer contributions to achieve the purposes of this chapter; and

(14) modify the copayment and deductible amounts for prescription drug benefits under a qualifying health benefit plan, if the commissioner determines that the modification is necessary to achieve the purposes of this chapter.

[Sections 1508.105-1508.150 reserved for expansion]

SUBCHAPTER D. PROGRAM ADMINISTRATION

Sec. 1508.151. EMPLOYER CERTIFICATION. (a) At the time of initial application, a health benefit plan issuer shall obtain from a small employer that seeks to purchase a qualifying health benefit plan a written certification that the employer meets the eligibility requirements described by Section 1508.051 and the minimum employer participation requirements described by Section 1508.053.

(b) Not later than the 90th day before the renewal date of a qualifying health benefit plan, a health benefit plan issuer shall obtain from the small employer that purchased the qualifying health benefit plan a written certification that the employer continues to meet the eligibility requirements described by Section 1508.051 and the minimum employer participation requirements described by Section 1508.053.

(c) A participating health benefit plan issuer may require a small employer to submit appropriate documentation in support of a certification described by Subsection (a) or (b).

Sec. 1508.152. APPLICATION PROCESS. (a) Subject to Subsection (b), a health benefit plan issuer shall accept applications for qualifying health benefit plan coverage from small employers at all times throughout the calendar year.

(b) The commissioner may limit the dates on which a health benefit plan issuer must accept applications for qualifying health benefit plan coverage if the commissioner determines the limitation to be necessary to achieve the purposes of this chapter.

Sec. 1508.153. EMPLOYEE ENROLLMENT; WAITING PERIOD. (a) A qualifying health benefit plan must provide employees with an initial enrollment period that is 31 days or longer, and annually at least one open enrollment period that is 31 days or longer. The commissioner by rule may require an additional open enrollment period if the commissioner determines that the additional open enrollment period is necessary to achieve the purposes of this chapter.

(b) A small employer may establish a waiting period for employees during which an employee is not eligible for coverage under a qualifying health benefit plan. The last day of a waiting period established under this subsection may not be later than the 90th day after the date on which the employee begins employment with the small employer.

(c) A health benefit plan issuer may not deny coverage under a qualifying health benefit plan to a new employee of a small employer that purchased the qualifying health benefit plan if the health benefit plan issuer receives an application for coverage from the employee not later than the 31st day after the latter of:

(1) the first day of the employee's employment; or

(2) the first day after the expiration of a waiting period established under

Subsection (b).

(d) Subject to Subsection (e), a health benefit plan issuer may deny coverage under a qualifying health benefit plan to an employee of a small employer who applies for coverage after the period described by Subsection (c).

(e) A health benefit plan issuer that denies an employee coverage under Subsection (d):

(1) may only deny the employee coverage until the next open enrollment period; and

(2) may subject the enrollee to a one-year preexisting condition provision, as described by Section 1508.102, if the period during which the preexisting condition provision applies does not exceed 18 months from the date of the initial application for coverage under the qualifying health benefit plan.

Sec. 1508.154. REPORTS. A health benefit plan issuer that participates in the program shall submit reports to the department in the form and at the time the commissioner prescribes.

[Sections 1508.155-1508.200 reserved for expansion]

SUBCHAPTER E. RATING OF QUALIFIED HEALTH BENEFIT PLANS

Sec. 1508.201. RATING; PREMIUM PRACTICES IN GENERAL. (a) A health benefit plan issuer participating in the program must:

(1) use rating practices for qualifying health benefit plans that are consistent with the purposes of this chapter; and

(2) in setting premiums for qualifying health benefit plans, consider the availability of reimbursement from the fund.

(b) A health benefit plan issuer participating in the program shall apply rating factors consistently with respect to all small employers in a class of business.

(c) Differences in premium rates charged for qualifying health benefit plans must be reasonable and reflect objective differences in plan design.

Sec. 1508.202. PREMIUM RATE DEVELOPMENT AND CALCULATION.

(a) Rating factors used to underwrite qualifying health benefit plans must produce premium rates for identical groups that:

(1) differ only by the amounts attributable to health benefit plan design; and

(2) do not reflect differences because of the nature of the groups assumed to select a particular health benefit plan.

(b) A health benefit plan issuer shall treat each qualifying health benefit plan that is issued or renewed in a calendar month as having the same rating period.

(c) A health benefit plan issuer may use only age and gender as case characteristics, as defined by Section 1501.201(2), in setting premium rates for a qualifying health benefit plan.

(d) The commissioner by rule may establish additional rating criteria and requirements for qualifying health benefit plans if the commissioner determines that the criteria and requirements are necessary to achieve the purposes of this chapter.

Sec. 1508.203. FILING; APPROVAL. (a) A health benefit plan issuer shall file with the department, for review and approval by the commissioner, premium rates to be charged for qualifying health benefit plans.

(b) If the commissioner limits health benefit plan issuer participation in the program under Section 1508.101(b), premium rates proposed to be charged for each qualifying health benefit plan will be considered as an element in the contract procurement process required under that section.

[Sections 1508.204-1508.250 reserved for expansion]

SUBCHAPTER F. HEALTHY TEXAS SMALL EMPLOYER PREMIUM STABILIZATION FUND

Sec. 1508.251. ESTABLISHMENT OF FUND. (a) To the extent that funds appropriated to the department are available for this purpose, the commissioner shall establish a fund from which health benefit plan issuers may receive reimbursement for claims paid by the health benefit plan issuers for individuals covered under qualifying group health plans.

(b) The fund established under this section shall be known as the healthy Texas small employer premium stabilization fund.

(c) The commissioner shall adopt rules necessary to implement and administer the fund, including rules that set out the procedures for operation of the fund and distribution of money from the fund.

Sec. 1508.252. OPERATION OF FUND; CLAIM ELIGIBILITY. (a) A health benefit plan issuer is eligible to receive reimbursement in an amount that is equal to 80 percent of the dollar amount of claims paid between \$5,000 and \$75,000 in a calendar year for an enrollee in a qualifying health benefit plan.

(b) A health benefit plan issuer is eligible for reimbursement from the fund only for the calendar year in which claims are paid.

(c) Once the dollar amount of claims paid on behalf of a covered individual reaches or exceeds \$75,000 in a given calendar year, a health benefit plan issuer may not receive reimbursement for any other claims paid on behalf of the individual in that calendar year.

Sec. 1508.253. REIMBURSEMENT REQUEST SUBMISSION. (a) A health benefit plan issuer seeking reimbursement from the fund shall submit a request for reimbursement in the form prescribed by the commissioner by rule.

(b) A health benefit plan issuer must request reimbursement from the fund annually, not later than the date determined by the commissioner, following the end of the calendar year for which the reimbursement requests are made.

(c) The commissioner may require a health benefit plan issuer participating in the program to submit claims data in connection with reimbursement requests as the commissioner determines to be necessary to ensure appropriate distribution of reimbursement funds and oversee the operation of the fund. The commissioner may require that the data be submitted on a per covered individual, aggregate, or categorical basis.

Sec. 1508.254. FUND AVAILABILITY. (a) The commissioner shall compute the total claims reimbursement amount for all health benefit plan issuers participating in the program for the calendar year for which claims are reported and reimbursement requested.

(b) If the total amount requested by health benefit plan issuers participating in the program for reimbursement for a calendar year exceeds the amount of funds available for distribution for claims paid during that same calendar year, the commissioner shall provide for the pro rata distribution of any available funds. A health benefit plan issuer participating in the program is eligible to receive a proportional amount of any available funds that is equal to the proportion of total eligible claims paid by all participating health benefit plan issuers that the requesting health benefit plan issuer paid.

(c) If the amount of funds available for distribution for claims paid by all health benefit plan issuers participating in the program during a calendar year exceeds the total amount requested for reimbursement by all participating health benefit plan issuers during that calendar year, the commissioner shall carry forward any excess funds and make those excess funds available for distribution in the next calendar year. Excess funds carried over under this section are added to the fund in addition to any other money appropriated for the fund for the calendar year into which the funds are carried forward.

Sec. 1508.255. PROGRAM REPORTING. (a) Each health benefit plan issuer participating in the program shall provide the department, in the form prescribed by the commissioner, monthly reports of total enrollment under qualifying health benefit plans.

(b) On the request of the commissioner, each health benefit plan issuer participating in the program shall furnish to the department, in the form prescribed by the commissioner, data other than data described by Subsection (a) that the commissioner determines necessary to oversee the operation of the fund.

Sec. 1508.256. CLAIMS EXPERIENCE DATA. (a) Based on available data and appropriate actuarial assumptions, the commissioner shall separately estimate the per covered individual annual cost of total claims reimbursement from the fund for qualifying health benefit plans.

(b) On request, a health benefit plan issuer participating in the program shall furnish to the department claims experience data for use in the estimates described by Subsection (a).

Sec. 1508.257. TOTAL ELIGIBLE ENROLLMENT DETERMINATION. (a) The commissioner shall determine total eligible enrollment under qualifying health benefit plans by dividing the total funds available for distribution from the fund by the estimated per covered individual annual cost of total claims reimbursement from the fund.

(b) At the end of the first year of enrollment and annually thereafter, the commissioner shall submit a report to the governor and the legislature regarding enrollment for the previous year and limitations on future enrollment that ensure that the Healthy Texas Program does not necessitate a substantial increase in funding to continue the program, as consistent with Section 1508.001.

Sec. 1508.258. EVALUATION AND PROTECTION OF FUND; EMPLOYER ENROLLMENT SUSPENSION. (a) The commissioner shall suspend the enrollment of new employers in qualifying health benefit plans if the commissioner determines that the total enrollment reported by all health benefit plan issuers under qualifying health benefit plans exceeds the total eligible enrollment determined under Section 1508.257 and is likely to result in anticipated annual expenditures from the fund in excess of the total funds available for distribution from the fund.

(b) The commissioner shall provide a health benefit plan issuer participating in the program with notification of any enrollment suspension under Subsection (a) as soon as practicable after:

(1) receipt of all enrollment data; and

(2) determination of the need to suspend enrollment.

(c) A suspension of issuance of qualifying health benefit plans to employers under Subsection (a) does not preclude the addition of new employees of an employer already covered under a qualifying health benefit plan or new dependents of employees already covered under a qualifying health benefit plan.

Sec. 1508.259. EMPLOYER ENROLLMENT REACTIVATION. If, at any point during a suspension of enrollment under Section 1508.258, the commissioner determines that funds are sufficient to provide for the addition of new enrollments, the commissioner:

(1) may reactivate new enrollments; and

(2) shall notify all participating group health benefit plan issuers that enrollment of new employers may be resumed.

Sec. 1508.260. FUND ADMINISTRATOR. (a) The commissioner may obtain the services of an independent organization to administer the fund.

(b) The commissioner shall establish guidelines for the submission of proposals by organizations for the purposes of administering the fund and may approve, disapprove, or recommend modification to the proposal of an applicant to administer the fund.

(c) An organization approved to administer the fund shall submit reports to the commissioner, in the form and at the times required by the commissioner, as necessary to facilitate evaluation and ensure orderly operation of the fund, including an annual report of the affairs and operations of the fund. The annual report must also be delivered to the governor, the lieutenant governor, and the speaker of the house of representatives.

(d) An organization approved to administer the fund shall maintain records in the form prescribed by the commissioner and make those records available for inspection by or at the request of the commissioner.

(e) The commissioner shall determine the amount of compensation to be allocated to an approved organization as payment for fund administration. Compensation is payable only from the fund.

(f) The commissioner may remove an organization approved to administer the fund from fund administration. An organization removed from fund administration under this subsection must cooperate in the orderly transition of services to another approved organization or to the commissioner.

Sec. 1508.261. STOP-LOSS INSURANCE; REINSURANCE. (a) The administrator of the fund, on behalf of and with the prior approval of the commissioner, may purchase stop-loss insurance or reinsurance from an insurance company licensed to write that coverage in this state.

(b) Stop-loss insurance or reinsurance may be purchased to the extent that the commissioner determines funds are available for the purchase of that insurance.

Sec. 1508.262. PUBLIC EDUCATION AND OUTREACH. (a) The commissioner may use an amount of the fund, not to exceed eight percent of the annual amount of the fund, for purposes of developing and implementing public education, outreach, and facilitated enrollment strategies targeted to small employers who do not provide health insurance.

(b) The commissioner shall solicit and accept recommendations concerning the development and implementation of education, outreach, and enrollment strategies under Subsection (a) from agents licensed under Title 13 to write health benefit plans in this state.

(c) The commissioner may contract with marketing organizations to perform or provide assistance with education, outreach, and enrollment strategies described by Subsection (a).

SECTION 2.02. The commissioner of insurance shall adopt any rules necessary to implement the change in law made by Chapter 1508, Insurance Code, as added by this article, not later than January 4, 2010.

SECTION 2.03. (a) The commissioner of insurance shall make an initial determination concerning limitation of health benefit plan issuer participation in the program established under Chapter 1508, Insurance Code, as added by this article, not later than January 18, 2010. If the commissioner determines that limited participation is necessary to achieve the purposes of Chapter 1508, Insurance Code, as added by this article, the commissioner shall issue a request for proposal from health benefit plan issuers to participate in the program not later than May 1, 2010.

(b) The commissioner of insurance shall ensure that the Healthy Texas Program is fully operational in a manner that allows health benefit plan issuers participating in the program to make the first annual request for reimbursement on January 1, 2011.

SECTION 2.04. This Act does not make an appropriation. This Act takes effect only if a specific appropriation for the implementation of the Act is provided in a general appropriations act of the 81st Legislature.

Explanation: This addition is necessary to authorize the creation of the Healthy Texas Program to enhance the availability of health coverage.

SR 1101 was read and was adopted without objection.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 78 ADOPTED

Senator Nelson called from the President's table the Conference Committee Report on **SB 78**. The Conference Committee Report was filed with the Senate on Saturday, May 30, 2009.

On motion of Senator Nelson, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 1.

Nays: Seliger.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 715 ADOPTED**

Senator Estes called from the President's table the Conference Committee Report on **HB 715**. The Conference Committee Report was filed with the Senate on Saturday, May 30, 2009.

On motion of Senator Estes, the Conference Committee Report was adopted by the following vote: Yeas 27, Nays 4.

Yeas: Averitt, Carona, Davis, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Hegar, Hinojosa, Huffman, Lucio, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Shapleigh, Van de Putte, Watson, Wentworth, West, Whitmire, Zaffirini.

Nays: Harris, Jackson, Uresti, Williams.

HOUSE CONCURRENT RESOLUTION 282

The Presiding Officer laid before the Senate the following resolution:

WHEREAS, **HB 3485** has been adopted by the senate and the house of representatives and is being prepared for enrollment; and

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

RESOLVED by the 81st Legislature of the State of Texas, That the enrolling clerk of the house of representatives be instructed to correct House Bill No. 3485, in the SECTION of the bill providing for the taking of effect of amended Chapters 372 and 382, Local Government Code, contingent on whether the Act of the 81st Legislature, Regular Session, 2009, relating to nonsubstantive additions to and corrections in enacted codes becomes law, by striking Subsection (a) of that SECTION and substituting the following:

(a) The sections of this Act amending Subchapter C, Chapter 372, Local Government Code, as amended by this Act, take effect only if the Act of the 81st Legislature, Regular Session, 2009, relating to nonsubstantive additions to and corrections in enacted codes does not become law. If the Act of the 81st Legislature, Regular Session, 2009, relating to nonsubstantive additions to and corrections in enacted codes becomes law, the sections of this Act amending Subchapter C, Chapter 372, Local Government Code, as amended by this Act, have no effect.

WEST

HCR 282 was read.

On motion of Senator West, the resolution was considered immediately and was adopted by the following vote: Yeas 31, Nays 0.

HOUSE CONCURRENT RESOLUTION 280

The Presiding Officer laid before the Senate the following resolution:

WHEREAS, **HB 3613** has been adopted by the senate and the house of representatives and is being prepared for enrollment; and

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

RESOLVED by the 81st Legislature of the State of Texas, That the enrolling clerk of the house of representatives be instructed to correct House Bill No. 3613 in Subsection (g) of the SECTION of the bill adding Section 11.131, Tax Code, by striking "(g) This section takes effect immediately" and substituting "(g) Notwithstanding any other provision of this Act, this section takes effect immediately".

WILLIAMS

HCR 280 was read.

On motion of Senator Williams, the resolution was considered immediately and was adopted by the following vote: Yeas 31, Nays 0.

SENATE CONCURRENT RESOLUTION 84

The Presiding Officer laid before the Senate the following resolution:

WHEREAS, **SB 771** has been adopted by the senate and the house of representatives and is being prepared for enrollment; and

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

RESOLVED by the 81st Legislature of the State of Texas, That the enrolling clerk of the senate be instructed to correct S.B. No. 771 by striking the SECTION of the bill that amends Section 6.411, Tax Code, and substituting the following appropriately numbered SECTION:

SECTION _____. Section 6.411, Tax Code, is amended by amending Subsections (c) and (d) and adding Subsection (c-1) to read as follows:

(c) This section does not apply to communications [~~that do not discuss the specific evidence, argument, facts, merits, or property involved in a hearing currently pending before the appraisal review board or to communications~~] between the board and its legal counsel.

(c-1) This section does not apply to communications involving the chief appraiser or another employee of an appraisal district and a member of the appraisal review board that are specifically limited to and involve administrative, clerical, or logistical matters related to the scheduling and operation of hearings, the processing of documents, the issuance of orders, notices, and subpoenas, and the operation of the appraisal review board.

(d) An offense under this section is a Class A [€] misdemeanor.

WILLIAMS

SCR 84 was read.

On motion of Senator Williams, the resolution was considered immediately and was adopted by the following vote: Yeas 31, Nays 0.

SENATE CONCURRENT RESOLUTION 86

The Presiding Officer laid before the Senate the following resolution:

WHEREAS, **SB 1492** has been adopted by the house of representatives and the senate and is being prepared for enrollment; and

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

RESOLVED by the 81st Legislature of the State of Texas, That the enrolling clerk of the senate be instructed to correct SECTION 3 of the bill by striking Subsection (i), Section 39.452, Utilities Code, as added by House Committee Amendment No. 1, and substituting the following:

(j) Notwithstanding any other provision of this subtitle, in awarding a certificate of convenience and necessity or allowing cost recovery for purchased power by an electric utility subject to this section, the commission shall ensure in its determination that the provisions of Sections 37.056(c)(4)(D) and (E) are met and that the generating facility or the purchased power agreement satisfies the identified reliability needs of the utility.

WILLIAMS

SCR 86 was read.

On motion of Senator Williams, the resolution was considered immediately and was adopted by the following vote: Yeas 31, Nays 0.

HOUSE CONCURRENT RESOLUTION 292

The Presiding Officer laid before the Senate the following resolution:

WHEREAS, **HB 2559** has been adopted by the house of representatives and the senate and has been enrolled; and

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

RESOLVED by the 81st Legislature of the State of Texas, That the action of the speaker of the house of representatives and the president of the senate in signing House Bill No. 2559 be declared null and void and the signatures of the presiding officers be removed from the bill; and, be it further

RESOLVED by the 81st Legislature of the State of Texas, That the enrolling clerk of the house be instructed to re-enroll the bill after making the following correction:

Add the following appropriately numbered SECTION to the bill and renumber subsequent SECTIONS of the bill accordingly:

SECTION _____. DEPARTMENT OF STATE HEALTH SERVICES: STATE EMPLOYEE PILOT PROGRAM. The Department of State Health Services and the Employees Retirement System of Texas may enter into an interagency contract to establish a state employee pilot program consistent with federal guidelines for chronic disease prevention and wellness initiatives. To support the pilot program the

Department of State Health Services may use funds received from the American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5) or other such federal funds available to the Department of State Health Services.

DUNCAN

HCR 292 was read.

On motion of Senator Duncan, the resolution was considered immediately and was adopted by the following vote: Yeas 31, Nays 0.

HOUSE CONCURRENT RESOLUTION 285

The Presiding Officer laid before the Senate the following resolution:

WHEREAS, **HJR 14** has been adopted by the senate and the house of representatives and is being prepared for enrollment; and

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

RESOLVED by the 81st Legislature of the State of Texas, That the enrolling clerk of the house of representatives be instructed to correct House Joint Resolution No. 14 as follows:

In SECTION 1.02 of the joint resolution, in the prescribed ballot language (conference committee report page 4, line 23), between "tax revenue purposes" and the period, insert ", and to limit the legislature's authority to grant the power of eminent domain to an entity".

DUNCAN

HCR 285 was read.

On motion of Senator Duncan, the resolution was considered immediately and was adopted by the following vote: Yeas 31, Nays 0.

HOUSE CONCURRENT RESOLUTION 284

The Presiding Officer laid before the Senate the following resolution:

WHEREAS, **HB 2488** has been adopted by the senate and the house of representatives and is being prepared for enrollment; and

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

RESOLVED by the 81st Legislature of the State of Texas, That the enrolling clerk of the house of representatives be instructed to correct H.B. No. 2488 in added Section 31.004, Education Code, by adding the following text at the end of the section:

This section does not require a school district or open-enrollment charter school to provide any textbooks, electronic textbooks, or other instructional materials in addition to those required under this chapter.

OGDEN

HCR 284 was read.

On motion of Senator Ogden, the resolution was considered immediately and was adopted by the following vote: Yeas 31, Nays 0.

(President in Chair)**HOUSE CONCURRENT RESOLUTION 286**

The President laid before the Senate the following resolution:

WHEREAS, **HB 1831** has been adopted by the house of representatives and the senate and is being prepared for enrollment; and

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

RESOLVED by the 81st Legislature of the State of Texas, That the enrolling clerk of the house of representatives be instructed to correct House Bill No. 1831 as follows:

(1) In SECTION 1.03a of the bill, in added Section 418.016(b), Government Code (page 2a), strike "60 days" and substitute "30 days".

(2) In SECTION 2.04 of the bill (page 27, line 25), strike "November 1, 2009" and substitute "June 1, 2010".

(3) In SECTION 2.05 of the bill (page 29, line 1), strike "October 1, 2009" and substitute "January 1, 2010"

CARONA

HCR 286 was read.

On motion of Senator Carona, the resolution was considered immediately and was adopted by the following vote: Yeas 31, Nays 0.

SENATE CONCURRENT RESOLUTION 81

The President laid before the Senate the following resolution:

WHEREAS, **SB 726** has been adopted by the senate and the house of representatives and is being prepared for enrollment; and

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

RESOLVED by the 81st Legislature of the State of Texas, That the enrolling clerk of the senate be instructed to correct Senate Bill No. 726 by striking SECTION 3 (conference committee report page 19, lines 2 through 6) and substituting the following:

SECTION 3. (a) Except as provided by Subsection (b) of this section, this Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

(b) Chapter 8855, Special District Local Laws Code, as added by Section 1 of this Act, takes effect September 1, 2009.

ELTIFE

SCR 81 was read.

On motion of Senator Eltife, the resolution was considered immediately and was adopted by the following vote: Yeas 31, Nays 0.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

June 1, 2009

The Honorable President of the Senate

Senate Chamber

Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

HCR 290, Instructing the enrolling clerk of the house to make corrections in H.B. No. 3646.

HCR 291, Instructing the enrolling clerk of the house to make corrections to H.B. No. 4583.

HCR 293, Instructing the enrolling clerk of the house to make corrections in H.B. No. 2730.

SCR 59, Granting MBP Corporation permission to sue the Board of Trustees of the Galveston Wharves.

SCR 72, Granting Gulf Energy Exploration Corporation permission to sue the Railroad Commission of Texas.

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 4409 ADOPTED**

Senator Jackson called from the President's table the Conference Committee Report on **HB 4409**. The Conference Committee Report was filed with the Senate on Saturday, May 30, 2009.

On motion of Senator Jackson, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

(Senator Hegar in Chair)**(President in Chair)****HOUSE CONCURRENT RESOLUTION 287**

The President laid before the Senate the following resolution:

WHEREAS, **HB 4409** has been adopted by the senate and the house of representatives and is being prepared for enrollment; and

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

RESOLVED by the 81st Legislature of the State of Texas, That the enrolling clerk of the house of representatives be instructed to correct House Bill No. 4409 as follows:

(1) In SECTION 16 of the bill, in added Section 2210.072(a), Insurance Code (conference committee report, page 12, line 7), after "losses.", add "Public securities issued under this section must be repaid within a period not to exceed 10 years, and may be repaid sooner if the board of directors elects to do so and the commissioner approves."

(2) In SECTION 16 of the bill, in added Section 2210.073(a), Insurance Code (conference committee report, page 12, lines 28 and 29), strike "set by the commissioner by rule.".

(3) In SECTION 16 of the bill, in added Section 2210.074(a), Insurance Code (conference committee report, page 13, line 12), strike "as described by Subsection (c)." and substitute "as described by Section 2210.075. Public securities issued under this section must be repaid within a period not to exceed 10 years, and may be repaid sooner if the board of directors elects to do so and the commissioner approves."

(4) In SECTION 30 of the bill, in amended Section 2210.251(a), Insurance Code (conference committee report, page 21, line 18), strike "[or approved]" and substitute "or approved".

(5) In SECTION 30 of the bill, in amended Section 2210.251(d), Insurance Code (conference committee report, page 22, line 9), strike "[or approval]" and substitute "or approval".

(6) In SECTION 30 of the bill, in amended Section 2210.251(e), Insurance Code (conference committee report, page 22, line 16), strike "[or approval]" and substitute "or approval".

(7) In SECTION 30 of the bill, in added Section 2210.251(1)(2), Insurance Code (conference committee report, page 23, line 30), strike "association" and substitute "department".

(8) In SECTION 31 of the bill, in added Section 2210.258(a), Insurance Code (conference committee report, page 24, line 16), strike "Sections ___ through ___ H.B. No. 4409" and substitute "Sections 5 through 49, H.B. No. 4409".

(9) In SECTION 31 of the bill, in added Section 2210.259(a), Insurance Code (conference committee report, page 24, line 29), strike "June 1, 2009" and substitute "September 1, 2009".

(10) In SECTION 31 of the bill, in added Section 2210.259(a), Insurance Code (conference committee report, page 24, line 31), strike "June 1, 2009" and substitute "September 1, 2009".

(11) In SECTION 31 of the bill, in added Section 2210.259(a), Insurance Code (conference committee report, page 25, line 5), strike "SECTIONS ___ through ___ H.B. No. 4409" and substitute "Sections 5 through 49, H.B. No. 4409".

(12) In SECTION 41 of the bill, in added Section 2210.609(a), Insurance Code (conference committee report, page 37, line 11), strike "priority" and substitute "parity".

(13) In SECTION 51(b) of the bill (conference committee report, page 46, line 26), strike "Sections __ through __ and 50 of this Act" and substitute "Sections 1 through 4 and 50 of this Act".

JACKSON

HCR 287 was read.

On motion of Senator Jackson, the resolution was considered immediately and was adopted by the following vote: Yeas 31, Nays 0.

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 1495 ADOPTED**

Senator Williams called from the President's table the Conference Committee Report on **SB 1495**. The Conference Committee Report was filed with the Senate on Saturday, May 30, 2009.

On motion of Senator Williams, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

SENATE CONCURRENT RESOLUTION 88

The President laid before the Senate the following resolution:

WHEREAS, **SB 1495** has been adopted by the senate and the house of representatives and is being prepared for enrollment; and

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

RESOLVED, by the 81st Legislature of the State of Texas, That the enrolling clerk of the senate be instructed to correct S.B. No. 1495 by adding the following appropriately numbered SECTIONS to the bill and renumbering existing SECTIONS accordingly:

SECTION __. Subchapter A, Chapter 222, Transportation Code, is amended by adding Section 222.004 to read as follows:

Sec. 222.004. GENERAL OBLIGATION BONDS FOR HIGHWAY IMPROVEMENT PROJECTS. (a) In this section:

(1) "Bonds" means bonds, notes, and other public securities.

(2) "Credit agreement" has the meaning assigned by Section 1371.001, Government Code.

(3) "Improvement" includes the design of a highway, the acquisition of a highway, the construction of a highway, the major maintenance of a highway, and the acquisition of highway rights-of-way.

(b) The commission by order or resolution may issue general obligation bonds for the purposes stated in this section. The aggregate principal amount of the bonds may not exceed the amount specified by Section 49-p(a), Article III, Texas Constitution.

(c) The commission may enter into credit agreements relating to the bonds. A credit agreement entered into under this section may be secured by and payable from the same sources as the bonds.

(d) The bonds shall be executed in the form, on the terms, and in the denominations, bear interest, and be issued in installments as prescribed by the commission, and must mature not later than 30 years after their dates of issuance, subject to any refundings or renewals. The bonds may be issued in multiple series and issues from time to time and may include any provision the commission determines appropriate and in the interest of this state.

(e) The commission has any power necessary or appropriate to carry out this section or to implement Section 49-p, Article III, Texas Constitution, including each power granted to other governmental units or agencies authorized to issue bonds or to a nonprofit corporation by Chapter 1201, 1207, or 1371, Government Code.

(f) The bonds, the record of the proceedings that authorize the bonds, and any related credit agreement shall be submitted to the attorney general for approval as to their legality. If the attorney general finds that the bonds will be issued in accordance with this section and other applicable law, the attorney general shall approve the bonds. After payment by the purchasers of the bonds in accordance with the terms of sale and the execution and delivery of any related credit agreement, the bonds and the related credit agreement are incontestable for any cause.

(g) Bonds may be issued for one or more of the following purposes:

(1) to pay all or part of the costs of a highway improvement project;

(2) to pay:

(A) the costs of administering a project authorized under this section;

(B) the cost or expense of the issuance of the bonds; or

(C) all or part of a payment owed or to be owed under a credit

agreement;

(3) to provide money for deposit to the credit of the Texas Transportation Revolving Fund or a similar revolving fund authorized by law, to be used to make loans for highway improvement projects as provided by law; and

(4) to provide money to be used to finance projects authorized by Section 222.104.

(h) Proceeds from the sale of the bonds may not be spent or used for a purpose authorized by this section unless the legislature has appropriated the proceeds.

(i) Ten percent of the proceeds from the sale of the bonds must be used for the sole purpose of financing projects authorized by Section 222.104. Bond proceeds dedicated by this subsection shall be deposited to the credit of a separate account in the general revenue fund created for the deposit of money to be used to finance projects authorized by Section 222.104.

(j) The comptroller shall pay the principal of the bonds as the bonds mature and the interest as it becomes payable and shall pay any cost related to the bonds that becomes due, including a payment under a credit agreement.

(k) The commission shall make a good faith effort to recruit individuals who are in the private sector and described by Section 201.403 to underwrite the issuance of bonds under this section.

SECTION _____. Chapter 222, Transportation Code, is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. TEXAS TRANSPORTATION REVOLVING FUND

Sec. 222.131. DEFINITIONS. In this subchapter:

(1) "Bonds" means bonds, notes, and other public securities.

(2) "Credit agreement" has the meaning assigned by Section 1371.001, Government Code.

(3) "Fund" means the Texas Transportation Revolving Fund.

(4) "Fund revenue bonds" means bonds issued under Section 222.135.

(5) "Highway improvement project" includes acquisition of the highway, construction, reconstruction, and major maintenance, including any necessary design, and the acquisition of rights-of-way.

(6) "Transit provider" has the meaning assigned by Section 370.003.

(7) "Transportation project" means a tolled or nontolled highway improvement project.

Sec. 222.132. CREATION OF FUND. The Texas Transportation Revolving Fund is created as a fund held in the Texas Treasury Safekeeping Trust Company.

Sec. 222.133. ADMINISTRATION OF FUND. (a) The commission, through the department, shall manage, invest, use, administer, and provide financial assistance from the fund as provided by this subchapter.

(b) The commission may create within the fund one or more accounts or subaccounts as determined appropriate and necessary by the commission.

(c) The commission shall prepare and file annually with the governor, the lieutenant governor, and the Legislative Budget Board a report providing information on the operation of the fund, including:

(1) the amounts and sources of money deposited in the fund during the year;

(2) investments and returns on investments of money in the fund;

(3) loans made from the fund;

(4) other financial assistance provided from the fund;

(5) the status of any defaults on repayment of loans or other financial assistance provided from the fund; and

(6) the details of any transportation project for which financial assistance is received from the fund, including the identity of any highway directly affected by the project, and the degree to which the project is designed to reduce congestion, improve traffic safety, and enhance connectivity.

Sec. 222.134. SOURCES OF MONEY DEPOSITED IN FUND. The commission may deposit in the fund money derived from any source available to the commission, including:

(1) if appropriated by the legislature for that purpose:

(A) the proceeds of bonds issued under Section 222.003;

(B) the proceeds of bonds authorized by Section 49-p, Article III, Texas Constitution, if the law providing for the issuance of the bonds does not prohibit the deposit of the proceeds in the fund;

(C) money provided by the commission from the state highway fund;

(D) money provided by the commission from the Texas Mobility Fund that is in excess of the money required to be on deposit in the Texas Mobility Fund by the proceedings authorizing Texas Mobility Fund bonds and credit agreements; and

(E) other direct appropriations;

(2) repayments of principal and interest on loans made under Section 222.137;

- (3) the proceeds from the sale of loans under Section 222.140;
- (4) the proceeds from the sale of fund revenue bonds; and
- (5) gifts and grants.

Sec. 222.135. FUND REVENUE BONDS. (a) The commission may issue, sell, and deliver fund revenue bonds for the purpose of providing money for the fund.

(b) Fund revenue bonds are special obligations of the commission payable from the repayment of loans from the fund and other money on deposit in the fund as the commission may designate.

(c) Fund revenue bonds do not constitute a debt of the state or a pledge of the faith and credit of the state.

(d) The commission by order or resolution may issue fund revenue bonds in the name and on behalf of the state and the department and may enter into credit agreements related to the bonds. The bonds may be issued in multiple series and issues from time to time and may be issued on the terms and with the provisions the commission determines appropriate and in the interests of the state.

(e) The commission has all powers necessary or appropriate to carry out this section, including the powers granted to other bond-issuing governmental agencies and units and to nonprofit corporations by Chapters 1201, 1207, and 1371, Government Code.

(f) Before the issuance of fund revenue bonds or credit agreements, the commission shall submit the record of proceedings of the commission authorizing the issuance, execution, and delivery of the bonds or credit agreement and any contract providing revenue or security to pay the bonds or credit agreement to the attorney general for review. If the attorney general finds that the proceedings authorizing a bond or credit agreement and any bonds authorized in the proceedings conform to the requirements of the Texas Constitution and this subchapter, the attorney general shall approve the proceedings and the bonds and deliver to the comptroller for registration a copy of the attorney general's legal opinion stating that approval and the record of proceedings. After approval, the bonds or credit agreement may be executed and delivered, exchanged, or refinanced from time to time in accordance with those authorizing proceedings.

(g) If the proceedings and any bonds authorized in the proceedings are approved by the attorney general and registered by the comptroller as provided above, the bonds or credit agreement, as applicable, or a contract providing revenue or security included in or executed and delivered according to the authorizing proceedings are incontestable in a court or other forum and are valid, binding, and enforceable according to their terms.

(h) The proceeds from the sale of fund revenue bonds may be used to finance other funds or accounts relating to the bonds or credit agreement, including a debt service reserve fund, and to pay the costs of issuance. All remaining proceeds received from the sale of the bonds shall be deposited in the fund and invested and used as provided by this subchapter.

Sec. 222.136. INVESTMENT OF MONEY IN THE FUND. (a) Money in the fund may be invested as provided by Chapter 2256, Government Code, except that the proceeds of bonds deposited in the fund under Section 222.134 shall be subject to any limitations contained in the documents authorizing the issuance of the bonds.

(b) Income received from the investment of money in the fund shall be deposited in the fund, subject to requirements that may be imposed by the proceedings authorizing bonds issued to provide money for deposit in the fund that are necessary to protect the tax-exempt status of interest payable on the bonds in accordance with applicable law of the United States concerning federal income taxation of interest on the bonds. Investment income shall be deposited in an account or subaccount in the fund as determined by the department.

Sec. 222.137. USES OF MONEY IN THE FUND. (a) Except as otherwise provided by this section, the commission may use money held in the fund to provide financial assistance to a public entity, including the department, for the costs of a transportation project by:

(1) making loans, including through the purchase of obligations of the public entity;

(2) providing liquidity or credit enhancement, including through the agreement to loan to or purchase bonds, notes, or other obligations from a public entity;

(3) serving as a reserve fund established in connection with debt financing by the public entity;

(4) providing capitalized interest for debt financing by the public entity; or

(5) providing a guarantee of the payment of the costs of operations and maintenance of a transportation project.

(b) The proceeds of bonds authorized by Section 49-p, Article III, Texas Constitution, or issued under Section 222.003 may only be used to provide financial assistance for highway improvement projects, subject to any limitations provided by law.

(c) Money from the state highway fund may only be used for the purposes for which revenues are dedicated under Section 7-a, Article VIII, Texas Constitution.

(d) Money from the Texas Mobility Fund may only be used to provide financial assistance for state highway improvement projects, publicly owned toll roads, and public transportation projects, whether on or off of the state highway system, subject to any limitations provided by law.

(e) Money in the fund may be used to pay debt service on fund revenue bonds.

(f) The commission may require the payment of reasonable fees and other amounts by a public entity for all forms of financial assistance provided under this section.

(g) The department shall monitor the use of financial assistance provided to a public entity to ensure the financial assistance is used for purposes authorized by law and may audit the books and records of a public entity for this purpose.

Sec. 222.138. BORROWING FROM THE FUND BY PUBLIC ENTITY. (a) A public entity, including a municipality, county, district, authority, agency, department, board, or commission, that is authorized by law to construct, maintain, or finance a transportation project may borrow money from the fund, including by direct loan or other financial assistance from the fund, and may enter into any agreement relating to receiving financial assistance from the fund.

(b) Money received by a public entity under this subchapter must be segregated from other funds under the control of the public entity and may only be used for purposes authorized by this subchapter.

(c) To provide for the repayment of a loan or other financial assistance, a public entity may:

(1) pledge revenues or income from any available source;

(2) pledge, levy, and collect any taxes, subject to any constitutional limitation; or

(3) pledge any combination of revenues, income, and taxes.

(d) This section is wholly sufficient authority for a public entity to borrow or otherwise obtain financial assistance from the fund as authorized by this subchapter and to pledge revenues, income, or taxes, or any combination of revenues, income, and taxes, to the repayment of a loan or other financial assistance.

Sec. 222.139. REPAYMENT TERMS; DEPOSIT OF REPAYMENTS. (a) For financial assistance that must be repaid, the commission shall determine the terms and conditions of the repayment, including the interest rates to be charged.

(b) The commission may require the entity receiving financial assistance that must be repaid to make charges, levy and collect taxes, pledge revenues, or otherwise take such action as may be necessary to provide for money in an amount sufficient for repayment according to the terms agreed on at the time the financial assistance is provided.

(c) For a tolled highway improvement project, the commission, in lieu of requiring the repayment of financial assistance and any interest thereon, may require that revenues from the project be shared between the entity and the department, and the entity and the department may enter into an agreement specifying the terms and conditions of the revenue sharing.

(d) The department shall deposit in the fund all amounts received from repayment of the financial assistance or as a share of revenues from a tolled highway improvement project.

Sec. 222.140. SALE OF LOANS. (a) As used in this section, "loan" includes any financial assistance that must be repaid or any portion of such assistance.

(b) The commission may sell any loans made from money in the fund and shall deposit the proceeds of the sale in the fund.

(c) For any loans to be sold under this section, the commission may submit to the attorney general for review and approval the related financial assistance agreement, which shall, for the purposes of Chapter 1202, Government Code, be considered to be a public security, along with the record of proceedings of the borrowing entity relating to the agreement. If the attorney general approves the agreement, it shall be incontestable in a court or other forum and is valid, binding, and enforceable according to its terms as provided by Chapter 1202, Government Code.

(d) The commission must sell the loans using a competitive bidding process and at the price and under the terms and conditions that it determines to be reasonable.

(e) As part of the sales agreement with the purchaser of a loan, the commission may agree to perform the functions required to enforce the conditions and requirements stated in the loans, including the payment of debt service by the borrowing entity.

(f) The commission may exercise any powers necessary to carry out the authority granted by this section, including the authority to contract with any person to accomplish the purposes of this section.

(g) The commission shall not be liable for the repayment of, and may not repay, any loan sold under this section.

Sec. 222.141. WAIVER OF SOVEREIGN IMMUNITY. A public entity receiving financial assistance under this subchapter and the department may agree to waive sovereign immunity to suit for the purpose of adjudicating a claim to enforce any of their obligations brought by a party for breach of the terms of the financial assistance agreement.

Sec. 222.142. IMPLEMENTATION BY RULE. (a) The commission shall adopt rules to implement this subchapter, including rules:

(1) establishing eligibility and prioritization criteria for entities applying for financial assistance from the fund and for transportation projects that may receive financial assistance from the fund;

(2) specifying the method for setting the terms and conditions for providing financial assistance from the fund and for the repayment of financial assistance from the fund; and

(3) establishing procedures for the sale of loans originated from amounts on deposit in the fund.

(b) The eligibility and prioritization criteria described in Subsection (a)(1) shall provide that financial assistance made available for the delivery of a transportation project by the department may not be in a larger amount or on more favorable terms than the financial assistance requested and previously offered for the delivery of that transportation project by a public entity, if any.

(c) The commission shall appoint a rules advisory committee to advise the department and the commission on the development of the commission's initial rules required by this section. The committee must include one or more members representing a local toll project entity, as defined in Section 228.0111, Chapter 2110, Government Code, does not apply to the committee. This subsection expires on the date the commission adopts initial rules under this section.

WILLIAMS

SCR 88 was read.

On motion of Senator Williams, the resolution was considered immediately and was adopted by the following vote: Yeas 31, Nays 0.

HOUSE CONCURRENT RESOLUTION 290

The President laid before the Senate the following resolution:

WHEREAS, **HB 3646** has been adopted by the house of representatives and the senate and is being prepared for enrollment; and

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

RESOLVED by the 81st Legislature of the State of Texas, That the enrolling clerk of the house of representatives be instructed to make the following corrections:

(1) On page 6, line 13, strike "(d-2)" and substitute "(d-3)".

(2) On page 6, line 13, strike "(d-1)" and substitute "(d-2)".

(3) On page 42, line 21, strike "may be used that that purpose" and substitute "may be used for that purpose".

(4) On page 70, line 21, between "26.05(g)" and the period, insert ", Tax Code".

(5) On page 108, between lines 25 and 26, add the following appropriately numbered SECTION and renumber subsequent SECTIONS in the bill accordingly:

SECTION _____. Section 21.402(c-1), Education Code, as added by this Act, is not intended to require an increase in the second year of the biennium beginning September 1, 2009.

(6) On page 109, line 16, strike "Sections" and substitute "Section".

SHAPIRO

HCR 290 was read.

On motion of Senator Shapiro, the resolution was considered immediately and was adopted by the following vote: Yeas 31, Nays 0.

HOUSE CONCURRENT RESOLUTION 293

The President laid before the Senate the following resolution:

WHEREAS, **HB 2730** has been adopted by the house of representatives and the senate and is being prepared for enrollment; and

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

RESOLVED by the 81st Legislature of the State of Texas, That the enrolling clerk of the house of representatives be instructed to make the following correction:

(1) Strike SECTION 6.15 of the bill (conference committee report, page 138, line 24, through page 139, line 2).

(2) In SECTION 11.03 of the bill, strike amended Section 411.172(a), Government Code (conference committee report, page 166, line 15, through page 168, line 2), and substitute the following:

(a) A person is eligible for a license to carry a concealed handgun if the person:

(1) is a legal resident of this state for the six-month period preceding the date of application under this subchapter or is otherwise eligible for a license under Section 411.173(a);

(2) is at least 21 years of age;

(3) has not been convicted of a felony;

(4) is not charged with the commission of a Class A or Class B misdemeanor or equivalent offense, or of an offense under Section 42.01, Penal Code, or equivalent offense, or of a felony under an information or indictment;

(5) is not a fugitive from justice for a felony or a Class A or Class B misdemeanor or equivalent offense;

(6) is not a chemically dependent person;

(7) is not incapable of exercising sound judgment with respect to the proper use and storage of a handgun;

(8) has not, in the five years preceding the date of application, been convicted of a Class A or Class B misdemeanor or equivalent offense or of an offense under Section 42.01, Penal Code, or equivalent offense;

(9) is fully qualified under applicable federal and state law to purchase a handgun;

(10) has not been finally determined to be delinquent in making a child support payment administered or collected by the attorney general;

(11) has not been finally determined to be delinquent in the payment of a tax or other money collected by the comptroller, the tax collector of a political subdivision of the state, or any agency or subdivision of the state;

(12) ~~[has not been finally determined to be in default on a loan made under Chapter 57, Education Code;~~

~~[(13)]~~ is not currently restricted under a court protective order or subject to a restraining order affecting the spousal relationship, other than a restraining order solely affecting property interests;

(13) ~~[(14)]~~ has not, in the 10 years preceding the date of application, been adjudicated as having engaged in delinquent conduct violating a penal law of the grade of felony; and

(14) ~~[(15)]~~ has not made any material misrepresentation, or failed to disclose any material fact, in an application submitted pursuant to Section 411.174 ~~[or in a request for application submitted pursuant to Section 411.175].~~

HINOJOSA

HCR 293 was read.

On motion of Senator Hinojosa, the resolution was considered immediately and was adopted by the following vote: Yeas 31, Nays 0.

SENATE CONCURRENT RESOLUTION 82

The President laid before the Senate the following resolution:

WHEREAS, **HB 4445** has been adopted by the house of representatives and the senate and is being prepared for enrollment; and

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

RESOLVED by the 81st Legislature of the State of Texas, That the enrolling clerk of the house be instructed to make the following corrections:

(1) In Subsection (a), SECTION 4 of the bill, strike "December 1, 2009" and substitute "December 1, 2011".

(2) In Subsection (a), SECTION 4 of the bill, strike "September 1, 2009" and substitute "September 1, 2011".

(3) In Subsection (b), SECTION 4 of the bill, strike "September 1, 2009" and substitute "September 1, 2011".

(4) In Subsection (c), SECTION 4 of the bill, strike "January 1, 2010" and substitute "January 1, 2012".

(5) In SECTION 5 of the bill, strike "September 1, 2009" and substitute "September 1, 2011".

GALLEGOS

SCR 82 was read.

On motion of Senator Gallegos, the resolution was considered immediately and was adopted by the following vote: Yeas 31, Nays 0.

SENATE CONCURRENT RESOLUTION 85

The President laid before the Senate the following resolution:

WHEREAS, **SB 2064** has been adopted by the house of representatives and the senate and is being prepared for enrollment; and

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

RESOLVED by the 81st Legislature of the State of Texas, That the enrolling clerk of the senate be instructed to make the following corrections:

(1) In SECTION 18 of the bill, in amended Subsection (a), Section 2306.6703, Government Code (house committee report, page 15, line 18), strike "is required to comply" and substitute "complies".

(2) In SECTION 18 of the bill, in amended Subsection (a), Section 2306.6703, Government Code (house committee report, page 15, line 23), strike "subpriority" and substitute "priority".

WEST

SCR 85 was read.

On motion of Senator West, the resolution was considered immediately and was adopted by the following vote: Yeas 31, Nays 0.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 3653 ADOPTED

Senator Davis again called from the President's table the Conference Committee Report on **HB 3653**. The Conference Committee Report was again filed with the Senate on Monday, June 1, 2009.

On motion of Senator Davis, the Conference Committee Report was again adopted by the following vote: Yeas 31, Nays 0.

(Senator Eltife in Chair)

SENATE RULE 8.02 SUSPENDED (Referral to Committee)

On motion of Senator Whitmire and by unanimous consent, Senate Rule 8.02 was suspended to take up for consideration **HCR 222** at this time.

HOUSE CONCURRENT RESOLUTION 222

The Presiding Officer laid before the Senate the following resolution:

WHEREAS, Colonel Thomas A. Davis, Jr., enjoyed a long and notable career with the Texas Department of Public Safety that spanned more than four decades, and it is most fitting that he be recognized with the naming of a DPS building in his honor; and

WHEREAS, Born in Mississippi and raised in Houston, Tommy Davis studied at South Texas Junior College and the University of Houston; on November 18, 1964, he joined the Department of Public Safety and graduated from the DPS Academy on March 5 of the following year; his first assignment was with the Driver License Service in Houston, and he began highway patrol duties in July 1967; and

WHEREAS, This able officer joined the investigative ranks on September 1, 1971, when he began working with the Criminal Intelligence Service in Houston; promoted to sergeant in August 1983, he relocated to Austin, and nearly three years later he assumed the responsibilities of assistant service commander; and

WHEREAS, Undertaking a new assignment in 1988, he became assistant chief of the Criminal Law Enforcement Division and later led the division as chief; he then moved to the senior levels of DPS command, holding the post of assistant director from September 1996 until February 2000; on March 1, 2000, he was named the agency's director, and he retired from that position on August 31, 2008; and

WHEREAS, An officer of great dedication and vast experience, Tommy Davis spent nearly 44 years serving the citizens of the Lone Star State, and the Texas Public Safety Commission has requested that a state office building be named in his honor; Building A at the Texas Department of Public Safety Headquarters Complex in Austin has never been named, and naming the building after Colonel Davis would provide a lasting tribute to his many years of service in behalf of his fellow Texans; now, therefore, be it

RESOLVED, That the 81st Legislature of the State of Texas hereby direct the Texas Facilities Commission to submit a proposal to the lieutenant governor and the speaker of the house of representatives to name Building A of the Texas Department of Public Safety Headquarters Complex at 5805 North Lamar Boulevard in Austin the Thomas A. Davis, Jr., Headquarters Building; and, be it further

RESOLVED, That the secretary of state forward an official copy of this resolution to the chair and executive director of the Texas Facilities Commission; and, be it further

RESOLVED, That, contingent on the receipt by the lieutenant governor and speaker of the house of representatives of the Texas Facilities Commission proposal, this resolution hereby authorize the naming of the Thomas A. Davis, Jr., Headquarters Building.

WHITMIRE

HCR 222 was read.

On motion of Senator Whitmire, the resolution was considered immediately and was adopted by the following vote: Yeas 31, Nays 0.

**SENATE RULE 8.02 SUSPENDED
(Referral to Committee)**

On motion of Senator Seliger and by unanimous consent, Senate Rule 8.02 was suspended to take up for consideration **HCR 268** at this time.

HOUSE CONCURRENT RESOLUTION 268

The Presiding Officer laid before the Senate the following resolution:

WHEREAS, The State of Texas lost a distinguished native son with the passing of the Honorable George E. "Buddy" West on June 25, 2008, yet his contributions continue to resonate in the lives of his fellow Texans; and

WHEREAS, Buddy West was first elected as the state representative for District 81 in 1992 and spent 16 years in the house; he was a highly effective advocate for his constituents in Ector, Andrews, and Winkler Counties, and his wisdom and guidance had a positive influence on his colleagues in the house; he was particularly active in the areas of energy policy and education, chairing the House Committee on Energy Resources, contributing to committees on public education and higher education, and supporting the growth of his alma mater, The University of Texas of the Permian Basin; by his side throughout his legislative career was his wife, successful real estate agent and admired Odessa resident Shirley West, with whom he shared 52 years of marriage; and

WHEREAS, The Lone Star State is all the better for the efforts of this esteemed Texan, and it is most appropriate that lasting tribute be paid to his service through the naming of a state facility in his honor; and

WHEREAS, By this resolution, the presiding officers and members of the house and senate express support and consent for naming a permanent facility at The University of Texas of the Permian Basin in honor of Buddy and Shirley West, and this resolution serves as the authorization required by Section 2165.005, Government Code; now, therefore, be it

RESOLVED, That the 81st Legislature of the State of Texas hereby direct the Texas Facilities Commission to name a permanent facility at The University of Texas of the Permian Basin in honor of Buddy and Shirley West; and, be it further

RESOLVED, That the secretary of state forward an official copy of this resolution to the chair and executive director of the Texas Facilities Commission.

SELIGER

HCR 268 was read.

On motion of Senator Seliger, the resolution was considered immediately and was adopted by the following vote: Yeas 31, Nays 0.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 2531 ADOPTED**

Senator Shapiro called from the President's table the Conference Committee Report on **HB 2531**. The Conference Committee Report was filed with the Senate on Saturday, May 30, 2009.

On motion of Senator Shapiro, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

SENATE BILL 1655 WITH HOUSE AMENDMENT

Senator Van de Putte called **SB 1655** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Floor Amendment No. 1

Amend **SB 1655** (House committee report) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. (a) Subchapter B, Chapter 466, Government Code, is amended by adding Section 466.027 to read as follows:

Sec. 466.027. VETERANS' ASSISTANCE GAME. (a) The commission shall operate an instant-ticket lottery game to benefit the fund for veterans' assistance established by Section 434.017, as amended by Chapter 1418 (H.B. 3107), Acts of the 80th Legislature, Regular Session, 2007.

(b) The commission shall:

(1) determine the ticket price, payout amounts, and manner in which the game is conducted;

(2) make tickets to the game available for sale continuously to the extent practicable; and

(3) change the design or theme of the game regularly to ensure that the game remains competitive with other instant-ticket lottery games offered by the commission.

(c) The commission shall market and advertise the lottery game operated under this section in a manner intended to inform the public that the game tickets are available for purchase and that the game proceeds are used to fund veterans programs in this state. The game tickets must clearly state that the game proceeds are used to benefit the veterans in this state. The Texas Veterans Commission may make recommendations to the Texas Lottery Commission relating to the marketing and advertising of the game.

(d) The commission shall encourage each sales agent that sells tickets to instant-ticket games or similar types of lottery games to sell tickets to the game operated under this section.

(e) No organization that would otherwise be eligible to receive funds from the state lottery account attributable to any lottery game authorized by this section may receive any such funds if it conducts illegal gambling or the illegal operation of gambling devices as defined by Chapter 47 of the Penal Code or allows illegal gambling or the illegal operation of gambling devices to be conducted on its property or in its facilities.

(b) This section takes effect only if S.B. No. 1969, Acts of the 81st Legislature, Regular Session, 2009, does not become law.

SECTION _____. (a) Subchapter B, Chapter 466, Government Code, is amended by adding Section 466.027 to read as follows:

Sec. 466.027. VETERANS' ASSISTANCE GAME. (a) The commission shall operate an instant-ticket lottery game to benefit the fund for veterans' assistance established by Section 434.017.

(b) The commission shall:

(1) determine the ticket price, payout amounts, and manner in which the game is conducted;

(2) make tickets to the game available for sale continuously to the extent practicable; and

(3) change the design or theme of the game regularly to ensure that the game remains competitive with other instant-ticket lottery games offered by the commission.

(c) The commission shall market and advertise the lottery game operated under this section in a manner intended to inform the public that the game tickets are available for purchase and that the game proceeds are used to fund veterans programs in this state. The game tickets must clearly state that the game proceeds are used to benefit the veterans in this state. The Texas Veterans Commission may make recommendations to the Texas Lottery Commission relating to the marketing and advertising of the game.

(d) The commission shall encourage each sales agent that sells tickets to instant-ticket games or similar types of lottery games to sell tickets to the game operated under this section.

(e) No organization that would otherwise be eligible to receive funds from the state lottery account attributable to any lottery game authorized by this section may receive any such funds if it conducts illegal gambling or the illegal operation of gambling devices as defined by Chapter 47 of the Penal Code or allows illegal gambling or the illegal operation of gambling devices to be conducted on its property or in its facilities.

(b) This section takes effect only if S.B. No. 1969, Acts of the 81st Legislature, Regular Session, 2009, becomes law.

SECTION _____. (a) Section 466.355(b), Government Code, is amended to read as follows:

(b) Money in the state lottery account may be used only for the following purposes and shall be distributed as follows:

(1) the payment of prizes to the holders of winning tickets;

(2) the payment of costs incurred in the operation and administration of the lottery, including any fees received by a lottery operator, provided that the costs incurred in a fiscal biennium may not exceed an amount equal to 12 percent of the gross revenue accruing from the sale of tickets in that biennium;

(3) the establishment of a pooled bond fund, lottery prize reserve fund, unclaimed prize fund, and prize payment account; and

(4) the balance, after creation of a reserve sufficient to pay the amounts needed or estimated to be needed under Subdivisions (1) through (3), to be transferred on or before the 15th day of each month as follows:

(A) the portion of the balance attributable to the lottery game operated under Section 466.027 to the fund for veterans' assistance established by Section 434.017, as amended by Chapter 1418 (H.B. 3107), Acts of the 80th Legislature, Regular Session, 2007; and

(B) the remainder to the foundation school fund~~[on or before the 15th day of each month].~~

(b) This section takes effect only if S.B. No. 1969, Acts of the 81st Legislature, Regular Session, 2009, does not become law.

SECTION _____. Section 466.355(b), Government Code, is amended to read as follows:

(b) Money in the state lottery account may be used only for the following purposes and shall be distributed as follows:

(1) the payment of prizes to the holders of winning tickets;

(2) the payment of costs incurred in the operation and administration of the lottery, including any fees received by a lottery operator, provided that the costs incurred in a fiscal biennium may not exceed an amount equal to 12 percent of the gross revenue accruing from the sale of tickets in that biennium;

(3) the establishment of a pooled bond fund, lottery prize reserve fund, unclaimed prize fund, and prize payment account; and

(4) the balance, after creation of a reserve sufficient to pay the amounts needed or estimated to be needed under Subdivisions (1) through (3), to be transferred on or before the 15th day of each month as follows:

(A) the portion of the balance attributable to the lottery game operated under Section 466.027 to the fund for veterans' assistance established by Section 434.017; and

(B) the remainder to the foundation school fund~~[, on or before the 15th day of each month].~~

(b) This section takes effect only if S.B. No. 1969, Acts of the 81st Legislature, Regular Session, 2009, becomes law.

SECTION _____. Section 466.408(b), Government Code, is amended to read as follows:

(b) If a claim is not made for prize money on or before the 180th day after the date on which the winner was selected, the prize money shall be used in the following order of priority:

(1) subject to legislative appropriation, not more than \$20 million in prize money each year may be deposited to or appropriated from the Texas Department of Health state-owned multicategorical teaching hospital account, which is an account in the general revenue fund;

(2) not more than \$5 million in prize money each year may be appropriated to the Health and Human Services Commission and shall be used to support the provision of inpatient hospital services in hospitals located in the 15 counties that comprise the Texas-Mexico border area, with payment for those services to be not less than the amount established under the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) cost reimbursement methodology for the hospital providing the services; ~~and~~

(3) the remaining amount, not to exceed \$5 million in prize money in each state fiscal year less any amount deposited in the fund in that year attributable to the lottery game operated under Section 466.027, shall be deposited to the fund for veterans' assistance; and

(4) all prize money subject to this section and not appropriated from the Texas Department of Health state-owned multicategorical teaching hospital account, ~~or~~ not appropriated to the Health and Human Services Commission for the purpose specified in Subdivision (2), and not deposited under Subdivision (3), shall be

deposited in the general revenue fund and may be appropriated for any purpose as determined by the legislature, including the provision of indigent health care services as specified in Chapter 61, Health and Safety Code.

SECTION _____. Sections 434.017(a) and (e), Government Code, as amended by Chapter 1418 (H.B. 3107), Acts of the 80th Legislature, Regular Session, 2007, are amended to read as follows:

(a) The fund for veterans' assistance is a special fund in the state treasury outside the general revenue fund. The fund is composed of:

(1) money transferred to the fund at the direction of the legislature;

(2) gifts and grants contributed to the fund; ~~and~~

(3) the earnings of the fund; and

(4) money transferred to the fund from proceeds of the lottery game operated under Section 466.027 or transferred to the fund under Section 466.408(b).

(e) The commission ~~comptroller~~ may solicit, ~~and~~ accept, or refuse a gift or grant of money, services, or property for any purpose related to the fund for veterans' assistance ~~[gifts and grants to the fund]~~. A gift or grant to the fund may be appropriated in the same manner as other money in the fund, subject to any limitation or requirement placed on the gift or grant by the donor or granting entity.

SECTION _____. (a) Section 466.355, Government Code, as amended by this Act, applies only to a transfer from the state lottery account made on or after the effective date of this Act.

(b) The Texas Lottery Commission shall establish and begin selling tickets to the lottery game as required by Section 466.027, Government Code, as added by this Act, not later than March 2, 2010.

The amendment was read.

Senator Van de Putte moved to concur in the House amendment to **SB 1655**.

The motion prevailed by the following vote: Yeas 26, Nays 5.

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

Nays: Estes, Fraser, Huffman, Ogden, Williams.

SENATE RULE 8.02 SUSPENDED (Referral to Committee)

On motion of Senator Uresti and by unanimous consent, Senate Rule 8.02 was suspended to take up for consideration **HCR 183** at this time.

HOUSE CONCURRENT RESOLUTION 183

The Presiding Officer laid before the Senate the following resolution:

WHEREAS, The oil and natural gas exploration industry has been a significant part of the state's economy since the early 20th century; today, Texas is the leading producing state for oil and natural gas in the country, accounting for 21.3 percent and 27.8 percent of total U.S. production, respectively; and

WHEREAS, Texas producers provide more than 200,000 jobs for Texas citizens, with an average pay that is almost three times higher than the average paid by all other industries; during fiscal year 2008, Texas producers paid over \$5 billion in taxes and fees to the state's general revenue fund; and

WHEREAS, Natural gas is a highly valued, clean fuel that has become a mainstay of electricity production and other industrial operations in Texas, while oil continues to constitute the backbone of the state's industrial sector and fuels virtually all of the state's transportation system; and

WHEREAS, Renewable energy sources offer great promise for Texas' long-term energy needs, but the technology that would make these sources abundant is in its infancy, and until that technology is adequately developed, renewable energy sources will remain dispersed and unable to deliver base load capacity; and

WHEREAS, Conservation can help satisfy the state's energy needs, and action to reduce customer demand is the quickest way to meet energy needs in the short term, but a growing economy and population will require more energy than can be saved through more efficient energy use; and

WHEREAS, To keep pace with increased demand, independent producers completed more than 11,000 wells in Texas in 2008, and in the two-year period 2007-2008, they increased the production of natural gas in Texas by more than 12 percent; and

WHEREAS, In addition to generating high-quality jobs, independent producers help to reduce America's dependence on Middle East oil by exploring for domestic resources and providing stable supplies of cost-effective energy to consumers; and

WHEREAS, Independent producers rely on longstanding tax provisions to plan their activities and to explore for new wells to offset declining production from older ones; without the development of new wells, energy supplies would decline and the costs to consumers would rise; and

WHEREAS, President Barack Obama's initial budget includes provisions deleting the intangible drilling costs deduction, percentage depletion allowance, geologic and geophysical costs deduction, and domestic production activities deduction, and the elimination of these provisions would cripple this state's energy jobs, reduce small businesses' access to capital, and harm royalty owners; and

WHEREAS, Intangible drilling costs (IDCs) typically include expenditures for physical items with no salvage value, as well as other costs associated with preparing and completing a well for the production of oil, gas, or geothermal steam or water; producers have long been able to deduct IDCs as current business expenses, rather than depreciate or amortize them over the life of the well; IDCs are actually similar to research and development costs, for which most manufacturing businesses are able to take a tax credit, rather than a deduction; and

WHEREAS, The percentage depletion allowance, also known as the small producers exemption, was created in the 1920s to encourage oil and natural gas exploration, which is an inherently high-risk venture; the exemption is available only to the smallest producers and allows them to deduct 15 percent of their gross income from oil and gas properties; and

WHEREAS, Geologic and geophysical (G&G) costs relate to the surveys that producers conduct or commission in order to locate and develop oil and natural gas reserves and to minimize unnecessary drilling; G&G costs may be amortized over the first 24 months of the life of a well; and

WHEREAS, The domestic production activities provision allows businesses a tax deduction for qualified production activities that are based in the United States; the deduction helps to preserve American jobs and American small businesses; and

WHEREAS, Major integrated companies are not eligible for the IDC deduction, percentage depletion allowance, or domestic production activities deduction, and they are subject to a seven-year amortization schedule for G&G work; consequently, "big oil" is not impacted by the proposed budget changes; and

WHEREAS, President Obama has stated his intention to support the development of jobs, promote the use of clean-burning energy, and reduce America's dependence on foreign oil, yet his budget proposals would lessen the ability of independent producers to help meet those three goals; now, therefore, be it

RESOLVED, That the 81st Legislature of the State of Texas hereby respectfully urge the United States Congress to reject the provisions of President Barack Obama's budget that would eliminate the intangible drilling costs deduction, percentage depletion allowance, geologic and geophysical costs deduction, and domestic production activities deduction and to encourage instead the development of Texas oil and natural gas; and, be it further

RESOLVED, That the Texas secretary of state forward official copies of this resolution to the president of the United States, to the speaker of the house of representatives and the president of the senate of the United States Congress, and to all the members of the Texas delegation to Congress with the request that this resolution be officially entered in the Congressional Record as a memorial to the Congress of the United States of America.

URESTI

HCR 183 was read.

On motion of Senator Uresti, the resolution was considered immediately and was adopted by the following vote: Yeas 31, Nays 0.

SENATE RESOLUTION 1075

Senator Wentworth offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 81st Legislature, Regular Session, 2009, 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 2774** (self-directed and semi-independent status of state financial regulatory agencies and the licensing and regulation of certain persons involved in residential mortgage lending; making an appropriation; providing a penalty) to consider and take action on the following matters:

(1) Senate Rule 12.03(1) is suspended to permit the committee to change text not in disagreement in proposed SECTION 2 of the bill, in added Subsection (b-1), Section 156.102, Finance Code, so that it reads as follows:

(b-1) The finance commission on the commissioner's recommendation may adopt rules to promote a fair and orderly administration of the fund consistent with the purposes of Subchapter F.

Explanation: The change is necessary to correct an error in a cross-reference.

(2) Senate Rule 12.03(4) is suspended to permit the committee to add text not included in either the house or senate version of the bill by adding the following SECTION to the bill:

SECTION 28. (a) Title 2, Finance Code, is amended by adding Chapter 16 to read as follows:

CHAPTER 16. FINANCIAL REGULATORY AGENCIES: SELF-DIRECTED AND SEMI-INDEPENDENT

Sec. 16.001. DEFINITIONS. In this chapter:

(1) "Financial regulatory agency" means:

(A) the Texas Department of Banking;

(B) the Department of Savings and Mortgage Lending;

(C) the Office of Consumer Credit Commissioner; and

(D) the Credit Union Department.

(2) "Policy-making body" means:

(A) the Finance Commission of Texas for:

(i) the Texas Department of Banking;

(ii) the Department of Savings and Mortgage Lending; and

(iii) the Office of Consumer Credit Commissioner; and

(B) the Credit Union Commission for the Credit Union Department.

Sec. 16.002. SELF-DIRECTED AND SEMI-INDEPENDENT STATUS OF FINANCIAL REGULATORY AGENCIES. Notwithstanding any other provision of law, a financial regulatory agency is self-directed and semi-independent as specified by this chapter. Any Act of the 81st Legislature that relates to a financial regulatory agency and that is inconsistent with the agency being self-directed and semi-independent may be implemented by the financial regulatory agency only on authorization by the policy-making body of the financial regulatory agency.

Sec. 16.003. BUDGET, REVENUES, AND EXPENSES. (a) A financial regulatory agency shall submit to the policy-making body of the financial regulatory agency a budget annually using generally accepted accounting principles. Notwithstanding any other provision of law, including the General Appropriations Act, the budget shall be adopted and approved only by the policy-making body of the financial regulatory agency.

(b) A financial regulatory agency shall be responsible for all direct and indirect costs of the agency's existence and operation. The financial regulatory agency may not directly or indirectly cause the general revenue fund to incur any cost.

(c) Subject to any limitations in a financial regulatory agency's enabling legislation, a financial regulatory agency may set the amounts of fees, penalties, charges, and revenues required or permitted by statute or rule as necessary for the purpose of carrying out the functions of the financial regulatory agency and funding the budget adopted and approved under Subsection (a).

(d) All fees and funds collected by a financial regulatory agency and any funds appropriated to the financial regulatory agency shall be deposited in interest-bearing deposit accounts in the Texas Treasury Safekeeping Trust Company. The comptroller shall contract with the financial regulatory agency for the maintenance of the deposit accounts under terms comparable to a contract between a commercial banking institution and the institution's customers.

(e) Periodically, each financial regulatory agency shall submit to the agency's policy-making body, as directed by the policy-making body, a report of the receipts and expenditures of the financial regulatory agency.

(f) The fiscal year for a financial regulatory agency begins on September 1 and ends on August 31.

Sec. 16.004. AUDITS. This chapter does not affect the duty of the state auditor to audit a financial regulatory agency. The state auditor shall enter into a contract and schedule with each financial regulatory agency to conduct audits, including financial reports and performance audits. The financial regulatory agency shall reimburse the state auditor for all costs incurred in performing the audits and shall provide to the governor a copy of any audit performed.

Sec. 16.005. RECORDS; REPORTING REQUIREMENTS. (a) A financial regulatory agency shall keep financial and statistical information as necessary to disclose completely and accurately the financial condition and results of operations of the agency.

(b) Before the beginning of each regular session of the legislature, each financial regulatory agency shall submit to the legislature and the governor a report describing all of the agency's activities in the previous biennium. The report must include:

- (1) an audit as required by Section 16.004;
- (2) a financial report of the previous fiscal year, including reports on financial condition and results of operations;
- (3) a description of all changes in fees imposed on regulated industries;
- (4) a report on changes in the regulatory jurisdiction of the agency, including the number of chartered financial institutions, license holders, and registrants subject to the agency's jurisdiction and any changes in those figures; and
- (5) a list of all new rules adopted or repealed.

(c) In addition to the reporting requirements of Subsection (b), not later than November 1 of each year, each financial regulatory agency shall submit to the governor, the committee of each house of the legislature that has jurisdiction over appropriations, and the Legislative Budget Board a report that contains:

- (1) the salary for all financial regulatory agency personnel and the total amount of per diem expenses and travel expenses paid for all agency employees;
- (2) the total amount of per diem expenses and travel expenses paid for each member of the agency's policy-making body, provided that only one report must be submitted regarding the Finance Commission of Texas;
- (3) the agency's operating plan and annual budget; and
- (4) a detailed report of all revenue received and all expenses incurred by the financial regulatory agency in the previous 12 months.

Sec. 16.006. ABILITY TO CONTRACT. (a) To carry out and promote the objectives of this chapter, a financial regulatory agency may enter into contracts and do all other acts incidental to those contracts that are necessary for the administration of the agency's affairs and for the attainment of the agency's purposes, except as limited by Subsection (b).

(b) Any indebtedness, liability, or obligation of the financial regulatory agency incurred under this section may not:

(1) create a debt or other liability of this state or another entity other than the financial regulatory agency; or

(2) create any personal liability on the part of the members of the policy-making body or the body's or agency's employees.

Sec. 16.007. PROPERTY. A financial regulatory agency may:

(1) acquire by purchase, lease, gift, or any other manner provided by law and maintain, use, and operate any real, personal, or mixed property, or any interest in property, necessary or convenient to the exercise of the powers, rights, privileges, or functions of the financial regulatory agency;

(2) sell or otherwise dispose of any real, personal, or mixed property, or any interest in property, that the financial regulatory agency determines is not necessary or convenient to the exercise of the agency's powers, rights, privileges, or functions;

(3) construct, extend, improve, maintain, and reconstruct, or cause to construct, extend, improve, maintain, and reconstruct, and use and operate all facilities necessary or convenient to the exercise of the powers, rights, privileges, or functions of the financial regulatory agency; and

(4) borrow money, as may be authorized from time to time by an affirmative vote of a two-thirds majority of the policy-making body of the financial regulatory agency, for a period not to exceed five years if necessary or convenient to the exercise of the financial regulatory agency's powers, rights, privileges, or functions.

Sec. 16.008. SUITS. The office of the attorney general shall represent a financial regulatory agency in any litigation. The attorney general may assess and collect from the financial regulatory agency reasonable attorney's fees associated with any litigation under this section.

Sec. 16.009. POST-PARTICIPATION LIABILITY. (a) If a financial regulatory agency no longer has status under this chapter as a self-directed semi-independent financial regulatory agency for any reason, the agency shall be liable for any expenses or debts incurred by the agency during the time the agency was a self-directed semi-independent financial regulatory agency. The agency's liability under this section includes liability for any lease entered into by the agency. This state is not liable for any expense or debt covered by this subsection, and money from the general revenue fund may not be used to repay the expense or debt.

(b) If a financial regulatory agency no longer has status under this chapter as a self-directed semi-independent financial regulatory agency for any reason, ownership of any property or other asset acquired by the agency during the time the agency was a self-directed semi-independent financial regulatory agency, including unexpended fees in a deposit account in the Texas Treasury Safekeeping Trust Company, shall be transferred to this state.

Sec. 16.010. DUE PROCESS; OPEN GOVERNMENT. A financial regulatory agency is:

(1) a governmental body for purposes of Chapters 551 and 552, Government Code; and

(2) a state agency for purposes of Chapters 2001 and 2005, Government Code.

Sec. 16.011. MEMBERSHIP IN EMPLOYEES RETIREMENT SYSTEM. Employees of the financial regulatory agencies are members of the Employees Retirement System of Texas under Chapter 812, Government Code, and the agencies' transition to independent status as provided by this chapter has no effect on their membership or any benefits under that system.

Sec. 16.012. GIFTS. (a) Notwithstanding any other law, a financial regulatory agency may not accept a gift, grant, or donation:

(1) from a party to an enforcement action; or

(2) to pursue a specific investigation or enforcement action.

(b) A financial regulatory agency must:

(1) report each gift, grant, or donation that the agency receives as a separate item in the agency's report required under Section 16.005(b); and

(2) include with the report a statement indicating the purpose for which each gift, grant, or donation was donated and used.

(b) Section 11.104, Finance Code, is amended to read as follows:

Sec. 11.104. EXPENSES AND COMPENSATION OF MEMBERS. A member of the finance commission is entitled to:

(1) the reimbursement for reasonable and necessary expenses incidental to travel incurred in connection with the performance of official duties; and

(2) a per diem [~~as set by legislative appropriation~~] for each day that the member engages in the business of the finance commission.

(c) Section 11.110(c), Finance Code, is amended to read as follows:

(c) A person appointed to the finance commission is entitled to reimbursement under Section 11.104, as if the person were a member of the finance commission, [~~as provided by the General Appropriations Act,~~] for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

(d) Section 11.204, Finance Code, is amended by adding Subsection (c) to read as follows:

(c) The finance commission shall have charge and control of the property known as the Finance Commission Building and use of staff, equipment, and facilities of the finance agencies. The Finance Commission Building refers to the property located in the city of Austin and titled in the name of the Banking Section of the Finance Commission of Texas, as described by deed recorded in Volume 5080, Page 1099, of the Deed Records of Travis County, Texas.

(e) Section 15.2041(c), Finance Code, is amended to read as follows:

(c) A person appointed to the commission is entitled to reimbursement under Section 15.207, as if the person were a member of the commission, for travel expenses incurred in attending the training program, regardless of whether the

attendance at the program occurs before or after the person qualifies for office~~], as provided by the General Appropriations Act and as if the person were a member of the commission~~.

(f) Subchapter E, Chapter 15, Finance Code, is amended by adding Section 15.4011 to read as follows:

Sec. 15.4011. CREDIT UNION DEPARTMENT BUILDING. The commission shall have charge and control of the property known as the Credit Union Department Building and use of staff, equipment, and facilities of the department. The Credit Union Department Building refers to the property located in the city of Austin and titled in the name of the State of Texas for the use and benefit of the Credit Union Department, as described by deed recorded in Volume 6126, Page 27, of the Deed Records of Travis County, Texas.

(g) Section 156.101(a), Finance Code, is amended to read as follows:

(a) The commissioner shall administer and enforce this chapter.

(h) Section 2165.007(b), Government Code, is amended to read as follows:

(b) Notwithstanding any other law, the commission shall provide facilities management services in relation to all state agency facilities in Travis County or a county adjacent to Travis County. The commission's duty does not apply to:

- (1) a facility owned or operated by an institution of higher education;
- (2) military facilities;
- (3) facilities owned or operated by the Texas Department of Criminal Justice;

Justice;

- (4) facilities owned or operated by the Texas Youth Commission;
- (5) facilities owned or operated by the Texas Department of Transportation;
- (6) the Capitol, including the Capitol Extension, the General Land Office building, the Bob Bullock Texas State History Museum, any museum located on the Capitol grounds, the Governor's Mansion, and any property maintained by the Texas Historical Commission under Sections 442.0072 and 442.0073;

(7) a facility determined by the commission to be completely residential;

(8) a regional or field office of a state agency; ~~or~~

(9) a facility located within or on state park property;

(10) the property known as the Finance Commission Building described by deed recorded in Volume 5080, Page 1099, of the Deed Records of Travis County, Texas; or

(11) the property known as the Credit Union Department Building described by deed recorded in Volume 6126, Page 27, of the Deed Records of Travis County, Texas.

(i) Sections 12.103, 13.005, 13.008, 14.053, 14.060, 15.104, 15.207(c), 15.308, 15.408, and 156.101(b) and (c), Finance Code, are repealed.

(j)(1) To provide a reasonable period for each financial regulatory agency, as defined by Section 16.001, Finance Code, as added by this section, to establish itself as a self-directed and semi-independent agency, the following amounts are appropriated from the general revenue fund to each of those financial regulatory agencies:

(A) for the state fiscal year ending August 31, 2010, an amount equal to 50 percent of the amount of general revenue appropriated to the agency for the state fiscal year ending August 31, 2009; and

(B) for the state fiscal year ending August 31, 2011, an amount equal to 50 percent of the amount of general revenue appropriated to the agency for the state fiscal year ending August 31, 2009.

(2) Subject to Section 16.003, Finance Code, as added by this section, the appropriations made by Subdivision (1) of this subsection may be spent by the financial regulatory agency to which they are made as the financial regulatory agency directs. The financial regulatory agency shall repay to the general revenue fund the appropriation made to the agency for the state fiscal year ending August 31, 2010, not later than that date and as funds become available. The financial regulatory agency shall repay to the general revenue fund the appropriation made to the agency for the state fiscal year ending August 31, 2011, not later than that date and as funds become available.

(k) The transfer of a financial regulatory agency, as defined by Section 16.001, Finance Code, as added by this section, to self-directed and semi-independent status under Chapter 16, Finance Code, as added by this section, and the expiration of self-directed and semi-independent status may not act to cancel, suspend, or prevent:

(1) any debt owed to or by the financial regulatory agency;

(2) any fine, tax, penalty, or obligation of any party;

(3) any contract or other obligation of any party; or

(4) any action taken by the financial regulatory agency in the administration or enforcement of the agency's duties.

(l) Each financial regulatory agency, as defined by Section 16.001, Finance Code, as added by this section, shall continue to have and exercise the powers and duties allocated to the agency in the agency's enabling legislation, except as specifically amended by this section.

(m) Title to all supplies, materials, records, equipment, books, papers, and facilities used by each financial regulatory agency, as defined by Section 16.001, Finance Code, as added by this section, is transferred to each respective financial regulatory agency in fee simple. Nothing in this section shall have an effect on property owned by a financial regulatory agency on or before the effective date of this section.

(n) If a conflict exists between this section and another Act of the 81st Legislature, Regular Session, 2009, that relates to the self-directed and semi-independent status of a state financial regulatory agency, this section controls without regard to the relative dates of the enactment.

Explanation: The added language is necessary to improve the operations of state financial regulatory agencies that are self-directed and semi-independent.

(3) Senate Rules 12.03(1) and (3) are suspended to permit the committee to change the text of, and add text to, proposed SECTION 30 of the bill, so that it reads as follows:

SECTION 30. The provisions of this Act or the applications of those provisions are severable as provided by Section 311.032(c), Government Code. If the Secretary of Housing and Urban Development determines that any provision of Sections 1-27

and 29 of this Act fails to meet the requirements of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (Pub. L. No. 110-289), that provision of this Act shall be held invalid; however, the remainder of this Act or the application of the provision to other persons or circumstances is not affected.

Explanation: The change is a conforming change to the bill made necessary because of the addition of text to the bill under Item (2) of this resolution.

SR 1075 was read and was adopted without objection.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 2774 ADOPTED**

Senator Wentworth called from the President's table the Conference Committee Report on **HB 2774**. The Conference Committee Report was filed with the Senate on Saturday, May 30, 2009.

On motion of Senator Wentworth, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

**MOTION TO ADOPT
CONFERENCE COMMITTEE REPORT ON
SENATE BILL 313**

Senator Wentworth called from the President's table the Conference Committee Report on **SB 313**. The Conference Committee Report was filed with the Senate on Saturday, May 30, 2009.

POINT OF ORDER

Senator Williams raised a point of order that the Conference Committee Report was in violation of Senate Rule 12.03(4) as it relates to adding text which is not included in either the House or Senate version of the bill.

POINT OF ORDER RULING

The Presiding Officer, Senator Eltife in Chair, ruled that the point of order was well-taken and sustained.

RECESS

On motion of Senator Whitmire, the Senate at 6:02 p.m. recessed until 6:30 p.m. today.

AFTER RECESS

The Senate met at 7:54 p.m. and was called to order by the President.

AT EASE

The President at 7:54 p.m. announced the Senate would stand At Ease subject to the call of the Chair.

IN LEGISLATIVE SESSION

The President at 8:04 p.m. called the Senate to order as In Legislative Session.

**VOTE RECONSIDERED ON
SENATE BILL 2080**

On motion of Senator Uresti and by unanimous consent, the vote by which the Conference Committee Report on **SB 2080** was adopted was reconsidered.

Question — Shall the Conference Committee Report on **SB 2080** be adopted?

On motion of Senator Uresti and by unanimous consent, the motion to adopt the Conference Committee Report on **SB 2080** was withdrawn.

Senator Uresti moved to concur in the House amendments to **SB 2080**.

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

HOUSE CONCURRENT RESOLUTION 47

The President laid before the Senate the following resolution:

WHEREAS, The Honorable Paul Cruz Moreno, who joined the Texas House of Representatives in 1967, retired as the second-longest-serving member of that body in January 2009; and

WHEREAS, This esteemed Texan was born on April 28, 1931, and was raised in El Paso; following his high school graduation, he enlisted in the Marines and, during his six years in uniform, he served with valor in the Korean War, earning numerous awards and decorations; he subsequently received a bachelor's degree in business administration from Texas Western College and a law degree from The University of Texas; and

WHEREAS, Representative Moreno began his legislative career in 1967; long regarded as the "conscience" of the Texas House, he pushed for ethics reforms in the 1970s as a member of the "Dirty 30"; he has also been a tenacious champion of the disadvantaged, fighting for single-member districts, seeking to expand access to quality education, and calling for the respectful recognition, both in rhetoric and in policy, of every individual's human dignity; and

WHEREAS, Believed to be the longest-serving Mexican American lawmaker in the country, Representative Moreno in 1973 joined in founding the Mexican American Legislative Caucus, which addresses issues of particular concern to Latinos in Texas; moreover, he has endeavored to encourage grassroots participation in the political process, helping to establish the group Tejano Democrats and giving substantial support to the creation of the University Democrats at UTEP; and

WHEREAS, For 40 years, Paul Moreno has devoted his considerable talents and abilities to representing the interests of his constituents and to advancing the cause of social justice in the Lone Star State, and his colleagues have proposed naming a state office building in his honor as a fitting tribute; and

WHEREAS, By this resolution, the presiding officers and members of the house and senate express support and consent for naming a state office building in El Paso in Representative Moreno's honor, and this resolution serves as the authorization required by Section 2165.005, Government Code; now, therefore, be it

RESOLVED, That the 81st Legislature of the State of Texas hereby pay tribute to the Honorable Paul Cruz Moreno for his four decades of exemplary legislative service and direct the Texas Facilities Commission to name the state office building located at 401 East Franklin Avenue in El Paso the Paul C. Moreno State Office Building; and, be it further

RESOLVED, That the secretary of state forward an official copy of this resolution to the chair and executive director of the Texas Facilities Commission.

SHAPLEIGH

HCR 47 was read.

On motion of Senator Shapleigh, the resolution was considered immediately and was adopted by the following vote: Yeas 31, Nays 0.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

June 1, 2009

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 73, Memorializing the U.S. Congress to maintain the Federal Family Education Loan Program.

SCR 81, Instructing the enrolling clerk of the Senate to make corrections in S.B. No. 726.

SCR 82, Instructing the enrolling clerk of the House to make corrections in H.B. No. 4445.

SCR 84, Instructing the enrolling clerk of the Senate to make corrections in S.B. 771.

SCR 85, Instructing the enrolling clerk of the Senate to make corrections in S.B. No. 2064.

SCR 86, Instructing the enrolling clerk of the Senate to make corrections in S.B. No. 1492.

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 1970**

Senator Duncan submitted the following Conference Committee Report:

Austin, Texas
May 30, 2009

Honorable David Dewhurst
President of the Senate

Honorable Joe Straus
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 1970** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

DUNCAN
ESTES
HINOJOSA
VAN DE PUTTE
WILLIAMS
On the part of the Senate

T. SMITH
ANCHIA
HEFLIN

On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to certain election practices and procedures; providing penalties.

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

SECTION 1. Subsection (a), Section 2.051, Election Code, is amended to read as follows:

(a) Except as provided by Sections 2.055 and 2.056, this subchapter applies only to an election for officers of a political subdivision other than a county in which write-in votes may be counted only for names appearing on a list of write-in candidates and in which[~~;~~

~~[(1)]~~ each candidate for an office that is to appear on the ballot is unopposed, except as provided by Subsection (b)~~]; and~~

~~[(2) no proposition is to appear on the ballot].~~ For purposes of this section, a special election of a political subdivision is considered to be a separate election with a separate ballot from:

(1) a general election for officers of the political subdivision held at the same time as the special election; or

(2) another special election of the political subdivision held at the same time as the special election.

SECTION 2. Section 2.053, Election Code, is amended to read as follows:

Sec. 2.053. ACTION ON CERTIFICATION. (a) On receipt of the certification, the governing body of the political subdivision by order or ordinance may declare each unopposed candidate elected to the office. If no election is to be held on election day by the political subdivision, a copy of the order or ordinance shall be posted on election day at each polling place used or that would have been used in the election.

(b) If a declaration is made under Subsection (a), the election is not held. ~~[A copy of the order or ordinance shall be posted on election day at each polling place that would have been used in the election.]~~

(c) The ballots used at a separate election held at the same time as an election that would have been held if the candidates were not declared elected under this section shall include the offices and names of the candidates declared elected under this section listed separately after the measures or contested races in the separate election under the heading "Unopposed Candidates Declared Elected." The candidates shall be grouped in the same relative order prescribed for the ballot generally. No votes are cast in connection with the candidates.

(d) The secretary of state by rule may prescribe any additional procedures necessary to accommodate a particular voting system or ballot style and to facilitate the efficient and cost-effective implementation of this section.

(e) A certificate of election shall be issued to each candidate in the same manner and at the same time as provided for a candidate elected at the election. The candidate must qualify for the office in the same manner as provided for a candidate elected at the election.

SECTION 3. Subsection (a), Section 2.054, Election Code, is amended to read as follows:

(a) In an election that may be subject to this subchapter, a [A] person commits an offense if by intimidation or by means of coercion the person influences or attempts to influence a person to:

(1) not file an application for a place on the ballot or a declaration of write-in candidacy; or

(2) withdraw as a candidate [in an election that may be subject to this subchapter].

SECTION 4. Chapter 2, Election Code, is amended by adding Subchapter D to read as follows:

SUBCHAPTER D. CANCELLATION OF ELECTIONS

Sec. 2.081. CANCELLATION OF MOOT MEASURE. (a) If an authority that orders an election on a measure determines that the action to be authorized by the voters may not be taken, regardless of the outcome of the election, the authority may declare the measure moot and remove the measure from the ballot.

(b) If a measure is declared moot under this section and is removed from the ballot, the authority holding the election shall post notice of the declaration during early voting by personal appearance and on election day, at each polling place that would have been used for the election on the measure.

Sec. 2.082. SPECIFIC AUTHORITY FOR CANCELLATION REQUIRED. An authority that orders an election may cancel the election only if the power to cancel the election is specifically provided by statute.

SECTION 5. Subsection (a), Section 4.004, Election Code, is amended to read as follows:

(a) The notice of a general or special election must state:

(1) the nature and date of the election;

(2) except as provided by Subsection (c), the location of each polling place, including each early voting polling place;

(3) the hours that the polls will be open; and

(4) any other information required by other law.

SECTION 6. Subsection (a), Section 16.031, Election Code, is amended to read as follows:

(a) The registrar shall cancel a voter's registration immediately on receipt of:

(1) notice under Section 13.072(b) or 15.021 or a response under Section 15.053 that the voter's residence is outside the county;

(2) an abstract of the voter's death certificate under Section 16.001(a) or an abstract of an application indicating that the voter is deceased under Section 16.001(b);

(3) an abstract of a final judgment of the voter's total mental incapacity, partial mental incapacity without the right to vote, conviction of a felony, or disqualification under Section 16.002, 16.003, or 16.004;

(4) notice under Section 112.012 that the voter has applied for a limited ballot in another county;

(5) notice from a voter registration official in another state that the voter has registered to vote outside this state; ~~or~~

(6) notice from the early voting clerk under Section 101.0041 that a federal postcard application submitted by an applicant states a voting residence address located outside the registrar's county; or

(7) notice from the secretary of state that the voter has registered to vote in another county, as determined by the voter's driver's license number or personal identification card number issued by the Department of Public Safety or social security number.

SECTION 7. Section 67.010, Election Code, is amended by adding Subsection (d) to read as follows:

(d) The presiding officer may make a clerical correction to the officially canvassed returns based on any authorized amended county canvass filed with the presiding officer.

SECTION 8. Subsection (e), Section 85.001, Election Code, is amended to read as follows:

(e) For an election held on the uniform election date in May and any resulting runoff election, the period for early voting by personal appearance begins on the 12th day before election day and continues through the fourth day before election day.

SECTION 9. Section 85.004, Election Code, is amended to read as follows:

Sec. 85.004. PUBLIC NOTICE OF ~~MAIN~~ POLLING PLACE LOCATION. The election order and the election notice must state the location of each ~~the main~~ early voting polling place.

SECTION 10. Chapter 101, Election Code, is amended by adding Section 101.0041 to read as follows:

Sec. 101.0041. ACTION BY EARLY VOTING CLERK ON CERTAIN APPLICATIONS. The early voting clerk shall notify the voter registrar of a federal postcard application submitted by an applicant that states a voting residence address located outside the registrar's county.

SECTION 11. Subsection (a), Section 112.002, Election Code, is amended to read as follows:

(a) After changing residence to another county, a person is eligible to vote a limited ballot by personal appearance during the early voting period or by mail if:

(1) the person would have been eligible to vote in the county of former residence on election day if still residing in that county;

(2) the person is ~~was~~ registered to vote in the county of former residence at the time the person offers to vote in the county of new ~~when the voter changed~~ residence; and

(3) a voter registration for the person in the county of new residence is not effective on or before election day.

SECTION 12. Subchapter A, Chapter 125, Election Code, is amended by adding Section 125.010 to read as follows:

Sec. 125.010. PRESENCE OF VOTING SYSTEM TECHNICIAN AUTHORIZED. (a) In this section, "voting system technician" means a person who as a vocation repairs, assembles, maintains, or operates voting system equipment.

(b) On the request of the authority holding the election, a voting system technician may be present at a polling place, a meeting of the early voting ballot board, or a central counting station for the purpose of repairing, assembling, maintaining, or operating voting system equipment.

SECTION 13. Subchapter B, Chapter 141, Election Code, is amended by adding Section 141.040 to read as follows:

Sec. 141.040. NOTICE OF DEADLINES. Not later than the 30th day before the first day on which a candidate may file an application for a place on the ballot under this subchapter, the authority with whom the application must be filed shall post notice of the dates of the filing period in a public place in a building in which the authority has an office.

SECTION 14. Subsection (a), Section 146.0301, Election Code, as amended by Chapters 1107 (H.B. 2309) and 1109 (H.B. 2339), Acts of the 79th Legislature, Regular Session, 2005, is reenacted to read as follows:

(a) A write-in candidate may not withdraw from the election after the 67th day before election day.

SECTION 15. Subsection (b), Section 172.116, Election Code, is amended to read as follows:

(b) The committee shall convene to conduct the local canvass at the county seat ~~[not earlier than 6 p.m.]~~ on the second Thursday ~~[or later than 1 p.m. on the second Friday]~~ after election day at the hour specified by the county chair.

SECTION 16. Section 172.120, Election Code, is amended by amending Subsection (b) and adding Subsection (b-1) to read as follows:

(b) The state executive committee shall convene to conduct the state canvass for the general primary election not later than:

(1) ~~on~~ the second Sunday ~~Wednesday~~ after general primary election day, for an election in which three or more candidates are seeking election to the same office; or

(2) the 22nd day after general primary election day, for an election not described by Subdivision (1).

(b-1) Not later than the third ~~second~~ Saturday after runoff primary election day, the committee shall convene at the call of the state chair to conduct the state canvass of the runoff primary election.

SECTION 17. Section 192.031, Election Code, is amended to read as follows:

Sec. 192.031. PARTY CANDIDATE'S ENTITLEMENT TO PLACE ON BALLOT. (a) A political party is entitled to have the names of its nominees for president and vice-president of the United States placed on the ballot in a presidential general election if:

(1) the nominees possess the qualifications for those offices prescribed by federal law;

(2) ~~before 5 p.m. of the 70th day before presidential election day,~~ the party's state chair signs ~~and delivers to the secretary of state~~ a written certification of:

(A) the names of the party's nominees for president and vice-president;
and

(B) the names and residence addresses of presidential elector candidates nominated by the party, in a number equal to the number of presidential electors that federal law allocates to this state; ~~and~~

(3) the party's state chair delivers the written certification to the secretary of state before the later of:

(A) 5 p.m. of the 70th day before presidential election day; or

(B) 5 p.m. of the first business day after the date of final adjournment of the party's national presidential nominating convention; and

(4) the party is:

(A) required or authorized by Subchapter A of Chapter 172 to make its nominations by primary election; or

(B) entitled to have the names of its nominees placed on the general election ballot under Chapter 181.

(b) If the state chair's certification of the party's nominees is delivered by mail, it is considered to be delivered at the time of its receipt by the secretary of state.

SECTION 18. Subsection (b), Section 192.033, Election Code, is amended to read as follows:

(b) ~~The~~ ~~Not later than the 62nd day before presidential election day, the~~ secretary of state shall deliver the certification to the authority responsible for having the official ballot prepared in each county before the later of the 62nd day before presidential election day or the second business day after the date of final adjournment of the party's national presidential nominating convention.

SECTION 19. Subsection (a), Section 201.054, Election Code, is amended to read as follows:

(a) Except as provided by Subsection (f), a candidate's application for a place on a special election ballot must be filed not later than:

(1) 5 p.m. of the 62nd ~~[67th]~~ day before election day, if election day is on or after the 70th day after the date the election is ordered;

(2) 5 p.m. of the 31st day before election day, if election day is on or after the 36th day and before the 70th day after the date the election is ordered; or

(3) 5 p.m. of a day fixed by the authority ordering the election, which day must be not earlier than the fifth day after the date the election is ordered and not later than the 20th day before election day, if election day is before the 36th day after the date the election is ordered.

SECTION 20. Section 212.112, Election Code, is amended to read as follows:

Sec. 212.112. AMOUNT OF DEPOSIT. ~~The [(a) Subject to Subsection (d), the] amount of the recount deposit is [determined by the number of precincts for which a recount is requested in the document that the deposit accompanies, in accordance with the following schedule]:~~

~~(1) \$60 [five times the maximum hourly rate of pay for election judges,] for each [a] precinct in which[:~~

~~[(A)] regular paper ballots were used; and~~

~~(2) \$100 for each precinct in which an electronic voting system was used [(B) electronic voting system ballots, other than printed images of ballots cast using direct recording electronic voting machines, are to be recounted manually; or~~

~~[(C) both write in votes and voting system votes are to be recounted;~~

~~[(2) 10 times the maximum hourly rate of pay for election judges, for a precinct in which printed images of ballots cast using direct recording electronic voting machines are to be recounted manually;~~

~~[(3) three times the maximum hourly rate of pay for election judges, for a precinct in which ballots are to be recounted by automatic tabulating equipment and no write in votes are to be recounted; and~~

~~[(4) two times the maximum hourly rate of pay for election judges, for a precinct in which:~~

~~[(A) voting machines were used and no write in votes are to be recounted; or~~

~~[(B) only the write in votes cast in connection with a voting system are to be recounted].~~

~~[(b) In a recount of an election for which a majority vote is required for nomination or election to an office, the rate prescribed by Subsection (a)(1)(C) applies to each precinct in which a voting system was used, regardless of whether any write in votes were cast in the precinct, if:~~

~~[(1) the original election results show that write in votes were cast in the election; and~~

~~[(2) an exclusion of write in votes from the recount is not obtained under Section 212.136.~~

~~[(c) If more than one method of voting is used for early voting, each additional method of voting used for the early voting shall be treated as constituting an additional precinct in determining the amount of a recount deposit for a recount of early voting votes.~~

~~[(d) The minimum amount of a deposit accompanying a petition for a recount is \$50.]~~

SECTION 21. Subsections (b), (c), (d), (e), (f), (g), (h), and (i), Section 213.013, Election Code, are amended to read as follows:

(b) In a recount of an election on an office, each candidate for the office is entitled to be present at the recount and have watchers [~~representatives~~] present in the number corresponding to the number of counting teams designated for the recount. If only one counting team is designated or the recount is conducted on automatic tabulating equipment, each candidate is entitled to two watchers [~~representatives~~].

(c) In a recount of an election on an office for which a political party has a nominee or for which a candidate is aligned with a political party, the party is entitled to have watchers [~~representatives~~] present in the same number prescribed for candidates under Subsection (b).

(d) In a recount of an election on a measure, watchers [~~representatives~~] may be appointed by the campaign treasurer or assistant campaign treasurer of a specific-purpose political committee that supports or opposes the measure in the number corresponding to the number of counting teams designated for the recount. If only one counting team is designated or the recount is conducted on automatic tabulating equipment, each eligible specific-purpose political committee is entitled to two watchers [~~representatives~~].

(e) A watcher [~~representative~~] appointed to serve at a recount must deliver a certificate of appointment to the recount committee chair at the time the watcher [~~representative~~] reports for service. A watcher [~~representative~~] who presents himself or herself for service at any time immediately before or during the recount and submits a proper certificate of appointment must be accepted for service unless the number of appointees to which the appointing authority is entitled have already been accepted.

(f) The certificate must be in writing and must include:

- (1) the printed name and the signature of the watcher [~~representative~~];
- (2) the election subject to the recount;
- (3) the time and place of the recount;
- (4) the measure, candidate, or political party being represented;
- (5) the signature and the printed name of the person making the

appointment; and

- (6) an indication of the capacity in which the appointing authority is acting.

(g) If the watcher [~~representative~~] is accepted for service, the recount committee chair shall keep the certificate and deliver it to the recount coordinator after the recount for preservation under Section 211.007. If the watcher [~~representative~~] is not accepted for service, the recount committee chair shall return the certificate to the watcher [~~representative~~] with a signed statement of the reason for the rejection.

(h) Each person entitled to be present at a recount is entitled to observe any activity conducted in connection with the recount. The person is entitled to sit or stand conveniently near the officers conducting the observed activity and near enough to an officer who is announcing the votes or examining or processing the ballots to verify that the ballots are counted or processed correctly or to an officer who is tallying the votes to verify that they are tallied correctly. Rules concerning a watcher's [~~representative's~~] rights, duties, and privileges are otherwise the same as those prescribed by this code for poll watchers to the extent they can be made applicable.

(i) No mechanical or electronic means of recording images or sound are allowed inside the room in which the recount is conducted, or in any hallway or corridor in the building in which the recount is conducted within 30 feet of the entrance to the room, while the recount is in progress. However, on request of a person entitled to appoint watchers [~~representatives~~] to serve at the recount, the recount committee chair shall permit the person to photocopy under the chair's supervision any ballot, including any supporting materials, challenged by the person or person's watcher [~~representative~~]. The person must pay a reasonable charge for making the copies and, if no photocopying equipment is available, may supply that equipment at the person's expense. The person shall provide a copy on request to another person entitled to appoint watchers [~~representatives~~] to serve at the recount.

SECTION 22. Section 213.016, Election Code, is amended to read as follows:

Sec. 213.016. PRINTING IMAGES OF BALLOTS CAST USING DIRECT RECORDING ELECTRONIC VOTING MACHINES. During any printing of images of ballots cast using direct recording electronic voting machines for the purpose of a recount, the full recount committee is not required to be present. The recount committee chair shall determine how many committee members must be present during the printing of the images. Each candidate is entitled to be present and to have representatives present during the printing of the images in the same number as [~~prescribed by~~] Section 213.013(b) prescribes for watchers for a recount [~~during the printing of the images~~].

SECTION 23. Subsection (b), Section 221.014, Election Code, is amended to read as follows:

(b) The county shall pay the expenses of a new election ordered in the contest of a local option election [~~held under the Alcoholic Beverage Code~~] that was financed from money deposited by the applicants for the petition requesting the election.

SECTION 24. Subsections (a), (b), and (c), Section 271.002, Election Code, are amended to read as follows:

(a) If the elections ordered by the authorities of two or more political subdivisions are to be held on the same day in all or part of the same county [~~territory~~], the governing bodies of the political subdivisions may enter into an agreement to hold the elections jointly in the election precincts that can be served by common polling places, subject to Section 271.003.

(b) If an election ordered by the governor and the elections ordered by the authorities of one or more political subdivisions are to be held on the same day in all or part of the same county [~~territory~~], the commissioners court of a county in which the election ordered by the governor is to be held and the governing bodies of the other political subdivisions may enter into an agreement to hold the elections jointly in the election precincts that can be served by common polling places, subject to Section 271.003.

(c) If another law requires two or more political subdivisions to hold a joint election, the governing body of any other political subdivision holding an election on the same day in all or part of the same county [~~territory~~] in which the joint election is to be held may enter into an agreement to participate in the joint election with the governing bodies of the political subdivisions holding the joint election.

SECTION 25. Section 277.001, Election Code, is amended to read as follows:

Sec. 277.001. APPLICABILITY OF CHAPTER. This chapter applies to a petition authorized or required to be filed under a law outside this code in connection with an election[, ~~except a petition for a local option election held under the Alcoholic Beverage Code~~].

SECTION 26. The following provisions of the Election Code are repealed:

- (1) Section 1.016;
- (2) Subsection (d), Section 32.051;
- (3) Subsection (b), Section 33.031;
- (4) Subsection (b), Section 41.0041; and
- (5) Subsection (d), Section 65.002.

SECTION 27. The change in law made by the repeal of Section 1.016, Election Code, by this Act does not affect the validity of a person's action taken before the effective date of this Act, including a person's registration to vote, if the person was qualified to take such action before the effective date of this Act.

SECTION 28. The changes in law made by this Act apply only to an election ordered on or after September 1, 2009.

SECTION 29. This Act takes effect September 1, 2009.

The Conference Committee Report on **SB 1970** was filed with the Secretary of the Senate on Sunday, May 31, 2009.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 459

Senator Zaffirini submitted the following Conference Committee Report:

Austin, Texas
May 29, 2009

Honorable David Dewhurst
President of the Senate

Honorable Joe Straus
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 459** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

ZAFFIRINI
CARONA
ELTIFE

LEIBOWITZ
BOHAC
HARLESS
T. KING
WALLE

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 459** was filed with the Secretary of the Senate on Sunday, May 31, 2009.

**CONFERENCE COMMITTEE REPORT ON
HOUSE JOINT RESOLUTION 14**

Senator Duncan submitted the following Conference Committee Report:

Austin, Texas
May 31, 2009

Honorable David Dewhurst
President of the Senate

Honorable Joe Straus
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HJR 14** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

DUNCAN
ESTES
HEGAR

CORTE
BONNEN
HILDERBRAN
PEÑA
WOOLLEY

On the part of the Senate

On the part of the House

The Conference Committee Report on **HJR 14** was filed with the Secretary of the Senate on Sunday, May 31, 2009.

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 472**

Senator Estes submitted the following Conference Committee Report:

Austin, Texas
May 30, 2009

Honorable David Dewhurst
President of the Senate

Honorable Joe Straus
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 472** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

ESTES
AVERITT
HUFFMAN
VAN DE PUTTE

DESHOTEL
DARBY
SOLOMONS

On the part of the Senate

On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to notice required before and period to vacate after foreclosure sale of real property.

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

SECTION 1. Section 24.005, Property Code, is amended by amending Subsection (b) and adding Subsection (b-1) to read as follows:

(b) If the occupant is a tenant at will or by sufferance, the landlord must give the tenant at least three days' written notice to vacate before the landlord files a forcible detainer suit unless the parties have contracted for a shorter or longer notice period in a written lease or agreement. If a building is purchased at a tax foreclosure sale or a trustee's foreclosure sale under a lien superior to the tenant's lease and the tenant timely pays rent and is not otherwise in default under the tenant's lease after foreclosure, the purchaser must give a residential tenant of the building at least 60 ~~30~~ days' written notice to vacate if the purchaser chooses not to continue the lease. The tenant is considered to timely pay the rent under this subsection if, during the month of the foreclosure sale, the tenant pays the rent for that month to the landlord before receiving any notice that a foreclosure sale is scheduled during the month or pays the rent for that month to the foreclosing lienholder or the purchaser at foreclosure not later than the fifth day after the date of receipt of a written notice of the name and address of the purchaser that requests payment. Before a foreclosure sale, a foreclosing lienholder may give written notice to a tenant stating that a foreclosure notice has been given to the landlord or owner of the property and specifying the date of the foreclosure.

(b-1) A purchaser of a property at a foreclosure sale for which notice was given under Section 51.002(b) shall give a tenant or occupant at least 10 days' written notice to vacate before the purchaser may file a forcible detainer suit. The notice must be sent by certified mail and first class mail, postage prepaid, and must include notice on a separate page that states the tenant's rights under this chapter and Chapter 51. The attorney general shall prescribe the contents of the notice. The purchaser may require the tenant to vacate the property before the period prescribed by Section 51.002(i) only for failure to comply with the terms of the lease agreement, including the obligation to pay rent or other payment due under the lease agreement. The notice under this section is deemed delivered when the notice is deposited in the United States mail, postage prepaid and addressed to "tenant" or "occupant." The affidavit of a person knowledgeable of the facts to the effect that service was completed is prima facie evidence of service.

SECTION 2. Section 51.002, Property Code, is amended by amending Subsections (b) and (d) and adding Subsections (d-1), (i), and (j) to read as follows:

(b) Except as provided by Subsection (b-1), notice of the sale, which must include a statement of the earliest time at which the sale will begin, must be given at least 21 days before the date of the sale by:

(1) posting at the courthouse door of each county in which the property is located a written notice designating the county in which the property will be sold;

(2) filing in the office of the county clerk of each county in which the property is located a copy of the notice posted under Subdivision (1); and

(3) serving written notice of the sale by certified mail and regular mail on each debtor who, according to the records of the mortgage servicer of the debt, is obligated to pay the debt.

(d) Notwithstanding any agreement to the contrary, the mortgage servicer of the debt shall serve a debtor in default under a deed of trust or other contract lien on real property used as the debtor's residence with written notice by regular mail and certified mail stating that the debtor is in default under the deed of trust or other contract lien and giving the debtor at least 45 [20] days to cure the default before notice of sale can be given under Subsection (b). The attorney general shall prescribe the contents of the notice. The entire calendar day on which the notice required by this subsection is given, regardless of the time of day at which the notice is given, is included in computing the 45-day [20-day] notice period required by this subsection, and the entire calendar day on which notice of sale is given under Subsection (b) is excluded in computing the 45-day [20-day] notice period.

(d-1) In addition to the notice provided by Subsection (d), a mortgage servicer of the debt shall serve the debtor with a written notice by regular and certified mail under this subsection. The notice must be conspicuously printed on a separate sheet of paper that is 8-1/2 by 11 inches or larger and affixed to or enclosed with the notice of default provided under Subsection (d). The attorney general shall prescribe the contents of the notice. The notice must be in English and Spanish and in conspicuous, bold, or underlined print. The notice must include the following:

(1) a statement that the notice provided by the mortgage servicer is required by law;

(2) a description of the process of foreclosure on a contract lien;

(3) a statement that the debtor in default has 45 days to cure the default as provided by Subsection (d);

(4) a description of the options available to the debtor in default to prevent the foreclosure;

(5) a description of resources available to the debtor in default to assist in preventing the foreclosure;

(6) a list of resources the debtor may contact for assistance in filing a complaint concerning the foreclosure process; and

(7) the name, telephone number, facsimile number, and e-mail address of a person authorized to act for the servicer of the debt relating to the debt.

(i) If a sale of property occurs, notwithstanding Chapter 24:

(1) the tenant of the debtor is not required to vacate the property before the 61st day after the date of the sale, provided that the tenant:

(A) timely pays rent to the new property owner;

(B) complies with the other material provisions of the lease agreement;

and

(C) maintains the property in good order; and

(2) the debtor is not required to vacate the property before the 14th day after the date of the sale.

(j) A debtor who retains possession of the property during the period described by Subsection (i)(2):

(1) may not destroy, damage, or commit waste on the property; and

(2) is liable:

(A) to the purchaser, for the damage caused by a violation of Subdivision (1); and

(B) to the injured party, for any injury to an individual or damage to any property occurring during the period of possession described by Subsection (i)(2).

SECTION 3. (a) Effective September 1, 2011, Subsection (i), Section 51.002, Property Code, as added by Section 2 of this Act, is amended to read as follows:

(i) If a sale of property occurs, notwithstanding Chapter 24:

(1) the tenant of the debtor is not required to vacate the property before the 31st ~~[61st]~~ day after the date of the sale, provided that the tenant:

(A) timely pays rent to the new property owner;

(B) complies with the other material provisions of the lease agreement;

and

(C) maintains the property in good order; and

(2) the debtor is not required to vacate the property before the 14th day after the date of the sale.

(b) Effective September 1, 2011, Subsection (b), Section 24.005, Property Code, as amended by Section 1 of this Act, is amended to read as follows:

(b) If the occupant is a tenant at will or by sufferance, the landlord must give the tenant at least three days' written notice to vacate before the landlord files a forcible detainer suit unless the parties have contracted for a shorter or longer notice period in a written lease or agreement. If a building is purchased at a tax foreclosure sale or a trustee's foreclosure sale under a lien superior to the tenant's lease and the tenant timely pays rent and is not otherwise in default under the tenant's lease after foreclosure, the purchaser must give a residential tenant of the building at least 30 ~~[60]~~ days' written notice to vacate if the purchaser chooses not to continue the lease. The tenant is considered to timely pay the rent under this subsection if, during the month of the foreclosure sale, the tenant pays the rent for that month to the landlord before receiving any notice that a foreclosure sale is scheduled during the month or pays the rent for that month to the foreclosing lienholder or the purchaser at foreclosure not later than the fifth day after the date of receipt of a written notice of the name and address of the purchaser that requests payment. Before a foreclosure sale, a foreclosing lienholder may give written notice to a tenant stating that a foreclosure notice has been given to the landlord or owner of the property and specifying the date of the foreclosure.

SECTION 4. Chapter 51, Property Code, is amended by adding Section 51.013 to read as follows:

Sec. 51.013. COMMUNICATION WITH DEBTOR OR DEBTOR'S REPRESENTATIVE AFTER NOTICE OF DEFAULT. (a) After a notice of default is sent under Section 51.002(d) and a written authorization to communicate with a third party is received by the mortgage servicer from the debtor, a mortgage servicer shall communicate with a third party designated in writing by the debtor who provides assistance to the debtor, including a family member, licensed attorney of the debtor, or housing counseling agency approved by the United States Department of Housing and Urban Development.

(b) The notice described in Subsection (a) must be sent through the United States Postal Service, by hand delivery, or through electronic means.

(c) This section applies only to a lien on residential real property occupied by the debtor as the debtor's homestead.

SECTION 5. The changes in law made by this Act apply only to a notice required to be provided on or after September 1, 2009. A notice required to be provided before September 1, 2009, is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

SECTION 6. This Act takes effect September 1, 2009.

The Conference Committee Report on **SB 472** was filed with the Secretary of the Senate on Sunday, May 31, 2009.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 3653

Senator Davis again submitted the following Conference Committee Report:

Austin, Texas
June 1, 2009

Honorable David Dewhurst
President of the Senate

Honorable Joe Straus
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 3653** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

DAVIS
CARONA
SELIGER

MARQUEZ
GUILLEN
S. KING
OLIVO
STRAMA

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 3653** was again filed with the Secretary of the Senate.

MOTION TO ADJOURN SINE DIE

Senator Fraser at 8:13 p.m. moved that the Senate of the 81st Legislature, Regular Session, adjourn sine die, pending the receipt of Messages from the House and upon the completion of administrative duties.

[Discussion on the Motion to Adjourn Sine Die]

Senator Williams moved to call the previous question on the motion to adjourn sine die.

The President stated that there were five seconds to the motion.

Question — Shall the main question be now put?

The motion to place the previous question on the motion to adjourn sine die prevailed by the following vote: Yeas 17, Nays 11.

Yeas: Averitt, Deuell, Duncan, Eltife, Estes, Fraser, Hegar, Huffman, Jackson, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Wentworth, Williams.

Nays: Davis, Gallegos, Hinojosa, Lucio, Shapleigh, Uresti, Van de Putte, Watson, West, Whitmire, Zaffirini.

Absent: Carona, Ellis, Harris.

Question — Shall the Senate adjourn sine die, pending the receipt of Messages from the House and upon the completion of administrative duties?

The Senate at 8:54 p.m. agreed to adjourn sine die pending the receipt of Messages from the House and upon the completion of administrative duties by the following vote: Yeas 17, Nays 11.

Yeas: Averitt, Deuell, Duncan, Eltife, Estes, Fraser, Hegar, Huffman, Jackson, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Wentworth, Williams.

Nays: Davis, Gallegos, Hinojosa, Lucio, Shapleigh, Uresti, Van de Putte, Watson, West, Whitmire, Zaffirini.

Absent: Carona, Ellis, Harris.

BILLS AND RESOLUTIONS SIGNED

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

SB 44, SB 52, SB 58, SB 93, SB 175, SB 194, SB 292, SB 300, SB 328, SB 333, SB 361, SB 434, SB 482, SB 488, SB 497, SB 562, SB 679, SB 683, SB 704, SB 727, SB 870, SB 939, SB 956, SB 958, SB 978, SB 1003, SB 1009, SB 1143, SB 1145, SB 1152, SB 1182, SB 1199, SB 1206, SB 1247, SB 1273, SB 1304, SB 1317, SB 1343, SB 1369, SB 1440, SB 1458, SB 1557, SB 1616, SB 1629, SB 1693, SB 1735, SB 1757, SB 1764, SB 1844, SB 1896, SB 2033, SB 2047, SB 2253, SB 2274, SB 2298, SB 2306, SB 2324, SB 2423, SB 2453, SB 2468, SB 2513, SB 2543, SCR 38, SCR 77, SCR 79, SB 78, SB 297, SB 379, SB 408, SB 537, SB 636, SB 686, SB 726, SB 759, SB 771, SB 968, SB 1011, SB 1068, SB 1219, SB 1263, SB 1449, SB 1492, SB 1495, SB 1620, SB 1645, SB 1655, SB 1742, SB 1759, SB 1970, SB 2064, SB 2080, SB 2314, SB 2442, SCR 59, SCR 67, SCR 72, SCR 73, SCR 81, SCR 82, SCR 84, SCR 85, SCR 86, HB 51, HB 72, HB 103, HB 148, HB 216, HB 269, HB 432, HB 451, HB 469, HB 498, HB 537, HB 548, HB 666, HB 764, HB 770, HB 882, HB 963, HB 987, HB 1030, HB 1041, HB 1218, HB 1343, HB 1357, HB 1506, HB 1659, HB 1722, HB 1795, HB 1914, HB 1924, HB 2000, HB 2012, HB 2086, HB 2153, HB 2163, HB 2169, HB 2240, HB 2275, HB 2310, HB 2330, HB 2347, HB 2488, HB 2555, HB 2571, HB 2582, HB 2591, HB 2644, HB 2647, HB 2649, HB 2833, HB 2888, HB 2919, HB 3065, HB 3076, HB 3218, HB 3221, HB 3309, HB 3347, HB 3389, HB 3452, HB 3461, HB 3612, HB 3632, HB 3637, HB 3676, HB 3737, HB 3751, HB 3768, HB 3864, HB 3872, HB 3983, HB 4009, HB 4102, HB 4275, HB 4424, HB 4498, HB 4817, HB 4833, HJR 127, HB 3, HB 171, HB 1322, HB 1796, HB 1831,

HB 1935, HB 2003, HB 2093, HB 2374, HB 2521, HB 2531, HB 2553, HB 2559, HB 2682, HB 2730, HB 2774, HB 2854, HB 3224, HB 3479, HB 3485, HB 3613, HB 3621, HB 3646, HB 3653, HB 3689, HB 4244, HB 4409, HB 4445, HB 4583, HB 4586 (signed subject to Sec. 49-a, Art. III, Texas Constitution), HCR 77, HCR 78, HCR 164, HCR 183, HCR 185, HCR 186, HCR 216, HCR 217, HCR 218, HCR 222, HCR 223, HCR 224, HCR 229, HCR 231, HCR 232, HCR 239, HCR 244, HCR 245, HCR 246, HCR 247, HCR 248, HCR 249, HCR 250, HCR 261, HCR 262, HCR 264, HCR 265, HCR 266, HCR 268, HCR 272, HCR 273, HCR 275, HCR 276, HCR 277, HCR 278, HCR 280, HCR 281, HCR 282, HCR 283, HCR 284, HCR 285, HCR 286, HCR 287, HCR 290, HCR 292, HCR 293, HJR 14, HB 1801, HB 2030, HB 2196, HB 2328, HB 2626, HB 2917, HCR 181, HCR 252, HCR 258, HB 55, HB 339, HB 358, HB 394, HB 461, HB 518, HB 719, HB 746, HB 857, HB 1013, HB 1151, HB 1174, HB 1285, HB 1720, HB 1819, HB 2154, HB 2161, HB 2462, HB 2504, HB 2570, HB 2619, HB 2656, HB 2808, HB 2859, HB 2914, HB 2941, HB 2954, HB 3082, HB 3144, HB 3186, HB 3202, HB 3445, HB 3480, HB 3481, HB 3669, HB 4031, HB 4189, HB 4759, HCR 233, HCR 259, HJR 36, HB 10, HB 93, HB 130, HB 136, HB 192, HB 281, HB 383, HB 464, HB 556, HB 671, HB 673, HB 677, HB 748, HB 829, HB 986, HB 1012, HB 1043, HB 1138, HB 1259, HB 1290, HB 1309, HB 1462, HB 1544, HB 1770, HB 1787, HB 1822, HB 2013, HB 2113, HB 2127, HB 2212, HB 2256, HB 2344, HB 2346, HB 2360, HB 2425, HB 2450, HB 2515, HB 2524, HB 2525, HB 2609, HB 2654, HB 2668, HB 2685, HB 2779, HB 2805, HB 2845, HB 2932, HB 3009, HB 3041, HB 3072, HB 3073, HB 3094, HB 3095, HB 3114, HB 3201, HB 3216, HB 3228, HB 3433, HB 3502, HB 3594, HB 3628, HB 3635, HB 3717, HB 3762, HB 3785, HB 3851, HB 3859, HB 3896, HB 4060, HB 4152, HB 4290, HB 4294, HB 4300, HB 4311, HB 4338, HB 4433, HB 4435, HB 4451, HB 4456, HB 4461, HB 4545, HB 4642, HB 4715, HB 4720, HB 4722, HB 4727, HB 4728, HB 4730, HB 4755, HB 4765, HB 4767, HB 4778, HB 4789, HB 4799, HB 4825, HB 4827, HB 4828, HCR 234, HCR 235, HCR 236, HCR 240, HCR 241, HCR 242, HCR 253, HJR 7, HB 635, HB 715, HB 2559.

RESOLUTIONS OF RECOGNITION

The following resolutions were adopted by the Senate:

Memorial Resolutions

- HCR 77** (Eltife), In memory of Rose Shipton Pickens Kirkpatrick of Longview.
- HCR 216** (Eltife), In memory of Leo Edward Polowy, Jr., of Paris, Texas.
- HCR 217** (Eltife), In memory of Meredith G. Harper of Pattonville.
- HCR 218** (Eltife), In memory of Hazel Keith Schmitter of Cooper.
- HCR 223** (Eltife), In memory of Frank Weaver of Paris, Texas.
- HCR 224** (Deuell), In memory of Fredrick Michael Ford of Sulphur Springs.
- HCR 229** (Deuell), Honoring the memory of Clayton Bradley Rogers of Canton.
- HCR 232** (Deuell), In memory of Dustin Dow Clements of North Hopkins.

- HCR 239** (Eltife), In memory of Ruth Evelyn Burd of Paris, Texas.
- HCR 244** (Eltife), In memory of William Richard McCord of Sumner.
- HCR 245** (Eltife), Honoring the life of Shawn A. Edwards of Roxton.
- HCR 247** (Eltife), In memory of Charles R. Grimes of Paris, Texas.
- HCR 248** (Eltife), In memory of Mamie Bell Newsom of Paris, Texas.
- HCR 249** (Eltife), In memory of Clyde Donald Smith of Paris, Texas.
- HCR 250** (Van de Putte), Recognizing the heroism of U.S. Marine Corporal Roy Cisneros of San Antonio.
- HCR 261** (Eltife), In memory of Marguerite Stone Butler of Paris, Texas.
- HCR 262** (Eltife), In memory of Martha Sue Brunson of Paris, Texas.
- HCR 264** (Eltife), In memory of Natalie Rhea Skipworth of Paris, Texas.
- HCR 265** (Eltife), In memory of Willie Gray Sapp of Paris, Texas.
- HCR 266** (Eltife), In memory of Arlene Wilson Russell of Mount Pleasant.
- HCR 272** (Eltife), In memory of Charlene Champion of Paris, Texas.
- HCR 273** (Eltife), In memory of David Charles Buster of Caviness.
- HCR 275** (Eltife), In memory of Albert A. "Tootie" Anderson of Roxton.
- HCR 276** (Eltife), In memory of LuLane Caraway of Paris, Texas.
- HCR 277** (Eltife), In memory of Helen Louise Whitney of Paris, Texas.
- HCR 278** (Eltife), In memory of Mary Ellen Border Tubbs McDowell.
- HCR 281** (Hegar), In memory of Tye James Parrish.

Congratulatory Resolutions

- SR 1044** by Estes, Paying tribute to the rights guaranteed to the people of the United States.
- SR 1112** by Huffman, Recognizing Greater New Hope Missionary Baptist Church of League City on the occasion of the dedication of its new Family Life Center.
- SR 1113** by Seliger, Recognizing Suzanne McMath on the occasion of her retirement from State Farm Insurance.
- SR 1114** by Seliger, Commending Laura Frances Bright for earning her doctoral degree from The University of Texas at Austin.
- SR 1120** by Ellis, Recognizing Garnet Austin Coleman on the occasion of his graduation from Bellaire High School.
- HCR 231** (Deuell), Honoring the Texas Land Title Association for its continued support of the Texas Courthouse Stewardship Program.
- HCR 246** (Duncan), Honoring Kathryn Jay Hamilton of Lubbock for her outstanding career in education on the occasion of her retirement.

Official Designation Resolutions

HCR 78 (Eltife), Declaring March 2 and 3, 2009, as Kilgore Days at the State Capitol.

HCR 164 (Deuell), Designating April 21, 2009, as Delta County Day at the State Capitol.

ADJOURNMENT SINE DIE

The President announced that the hour for final adjournment of the Regular Session of the 81st Legislature had arrived and, in accordance with a previously adopted motion, declared the Regular Session of the 81st Legislature adjourned sine die at 6:34 p.m. Tuesday, June 2, 2009.

APPENDIX

BILLS AND RESOLUTIONS ENROLLED

May 31, 2009

SB 52, SB 93, SB 328, SB 333, SB 434, SB 488, SB 497, SB 562, SB 679, SB 956, SB 1009, SB 1068, SB 1182, SB 1219, SB 1263, SB 1273, SB 1557, SB 1757, SB 2274, SB 2468, SB 2513, SCR 67, SCR 79, SR 1011, SR 1064, SR 1069, SR 1071, SR 1072, SR 1073, SR 1074, SR 1076, SR 1079, SR 1080, SR 1081, SR 1084, SR 1085, SR 1086, SR 1087, SR 1088, SR 1090, SR 1091, SR 1092, SR 1093, SR 1095, SR 1096, SR 1097, SR 1098, SR 1102, SR 1104, SR 1105, SR 1108, SR 1109, SR 1110

June 1, 2009

SB 78, SB 297, SB 379, SB 408, SB 537, SB 636, SB 686, SB 726, SB 771, SB 968, SB 1011, SB 1449, SB 1492, SB 1495, SB 1620, SB 1645, SB 1655, SB 1742, SB 1759, SB 1970, SB 2064, SB 2080, SB 2314, SB 2442, SCR 59, SCR 72, SCR 73, SCR 81, SCR 82, SCR 84, SCR 85, SCR 86, SR 1044, SR 1075, SR 1077, SR 1082, SR 1089, SR 1099, SR 1101, SR 1103, SR 1106, SR 1111, SR 1112, SR 1113, SR 1114, SR 1116, SR 1117, SR 1118, SR 1119, SR 1120

SENT TO COMPTROLLER

June 1, 2009

SB 1

SENT TO GOVERNOR

June 1, 2009

SB 28, SB 39, SB 68, SB 129, SB 174, SB 184, SB 203, SB 223, SB 229, SB 271, SB 279, SB 282, SB 283, SB 343, SB 359, SB 390, SB 395, SB 397, SB 415, SB 418, SB 420, SB 448, SB 449, SB 451, SB 470, SB 476, SB 480, SB 521, SB 531, SB 532, SB 571, SB 572, SB 575, SB 581, SB 589, SB 627, SB 643,

SB 646, SB 652, SB 654, SB 660, SB 666, SB 671, SB 689, SB 698, SB 702, SB 703, SB 705, SB 742, SB 743, SB 768, SB 806, SB 833, SB 839, SB 860, SB 865, SB 866, SB 876, SB 882, SB 883, SB 887, SB 891, SB 904, SB 911, SB 963, SB 970, SB 1024, SB 1034, SB 1050, SB 1056, SB 1091, SB 1093, SB 1095, SB 1112, SB 1127, SB 1153, SB 1166, SB 1171, SB 1201, SB 1204, SB 1211, SB 1225, SB 1235, SB 1237, SB 1259, SB 1290, SB 1326, SB 1334, SB 1368, SB 1374, SB 1382, SB 1402, SB 1409, SB 1410, SB 1436, SB 1437, SB 1439, SB 1441, SB 1472, SB 1515, SB 1526, SB 1571, SB 1586, SB 1592, SB 1598, SB 1599, SB 1609, SB 1612, SB 1646, SB 1650, SB 1672, SB 1685, SB 1705, SB 1715, SB 1717, SB 1723, SB 1728, SB 1729, SB 1732, SB 1760, SB 1774, SB 1798, SB 1803, SB 1804, SB 1812, SB 1820, SB 1824, SB 1827, SB 1853, SB 1878, SB 1932, SB 1940, SB 1945, SB 1967, SB 1984, SB 2085, SB 2135, SB 2141, SB 2148, SB 2153, SB 2169, SB 2197, SB 2228, SB 2230, SB 2240, SB 2248, SB 2258, SB 2262, SB 2279, SB 2325, SB 2340, SB 2381, SB 2385, SB 2420, SB 2424, SB 2435, SB 2456, SB 2469, SB 2478, SB 2505, SB 2512, SB 2517, SB 2524, SB 2526, SB 2550, SB 2553, SB 2554, SB 2565, SB 2569, SB 2570, SB 2577, SCR 42, SCR 78

June 3, 2009

SB 44, SB 52, SB 58, SB 78, SB 93, SB 175, SB 194, SB 292, SB 297, SB 300, SB 328, SB 333, SB 361, SB 379, SB 408, SB 434, SB 482, SB 488, SB 497, SB 537, SB 562, SB 636, SB 679, SB 683, SB 686, SB 704, SB 726, SB 727, SB 759, SB 771, SB 870, SB 939, SB 956, SB 958, SB 968, SB 978, SB 1003, SB 1009, SB 1011, SB 1068, SB 1143, SB 1145, SB 1152, SB 1182, SB 1199, SB 1206, SB 1219, SB 1247, SB 1263, SB 1273, SB 1304, SB 1317, SB 1343, SB 1369, SB 1440, SB 1449, SB 1458, SB 1492, SB 1495, SB 1557, SB 1616, SB 1620, SB 1629, SB 1645, SB 1655, SB 1693, SB 1735, SB 1742, SB 1757, SB 1759, SB 1764, SB 1844, SB 1896, SB 1970, SB 2033, SB 2047, SB 2064, SB 2080, SB 2253, SB 2274, SB 2298, SB 2306, SB 2314, SB 2324, SB 2423, SB 2442, SB 2453, SB 2468, SB 2513, SB 2543, SCR 38, SCR 59, SCR 67, SCR 72, SCR 73, SCR 77, SCR 79, SCR 81, SCR 82, SCR 84, SCR 85, SCR 86

SIGNED BY GOVERNOR

June 4, 2009

SB 1068, SCR 77

SENT TO GOVERNOR

June 9, 2009

SB 1

SIGNED BY GOVERNOR

June 11, 2009

SB 643

June 19, 2009

SB 28, SB 39, SB 44, SB 52, SB 58, SB 68, SB 78, SB 79, SB 80, SB 82, SB 93, SB 98, SB 129, SB 174, SB 175, SB 184, SB 194, SB 202, SB 203, SB 229, SB 252, SB 271, SB 279, SB 281, SB 282, SB 283, SB 291, SB 292, SB 297, SB 300,

SB 305, SB 328, SB 333, SB 334, SB 343, SB 348, SB 359, SB 361, SB 375,
SB 376, SB 379, SB 390, SB 395, SB 397, SB 408, SB 410, SB 413, SB 414,
SB 415, SB 417, SB 418, SB 420, SB 448, SB 449, SB 451, SB 455, SB 470,
SB 476, SB 480, SB 482, SB 490, SB 497, SB 504, SB 518, SB 521, SB 524,
SB 527, SB 530, SB 531, SB 532, SB 537, SB 554, SB 562, SB 571, SB 572,
SB 576, SB 581, SB 584, SB 585, SB 588, SB 589, SB 596, SB 627, SB 633,
SB 636, SB 637, SB 638, SB 646, SB 650, SB 652, SB 654, SB 660, SB 662,
SB 666, SB 671, SB 679, SB 683, SB 689, SB 693, SB 698, SB 702, SB 703,
SB 704, SB 705, SB 707, SB 711, SB 726, SB 727, SB 742, SB 743, SB 745,
SB 748, SB 749, SB 755, SB 759, SB 768, SB 771, SB 776, SB 794, SB 798,
SB 801, SB 806, SB 808, SB 812, SB 833, SB 835, SB 839, SB 847, SB 860,
SB 865, SB 866, SB 870, SB 873, SB 876, SB 880, SB 882, SB 883, SB 887,
SB 891, SB 892, SB 894, SB 904, SB 909, SB 911, SB 926, SB 927, SB 939,
SB 940, SB 956, SB 958, SB 963, SB 968, SB 970, SB 994, SB 1003, SB 1009,
SB 1011, SB 1016, SB 1024, SB 1027, SB 1033, SB 1034, SB 1039, SB 1050,
SB 1053, SB 1055, SB 1056, SB 1057, SB 1058, SB 1080, SB 1081, SB 1082,
SB 1091, SB 1093, SB 1095, SB 1107, SB 1112, SB 1127, SB 1134, SB 1142,
SB 1143, SB 1145, SB 1152, SB 1153, SB 1166, SB 1171, SB 1182, SB 1199,
SB 1201, SB 1204, SB 1207, SB 1208, SB 1209, SB 1211, SB 1218, SB 1223,
SB 1225, SB 1235, SB 1236, SB 1237, SB 1247, SB 1259, SB 1263, SB 1273,
SB 1290, SB 1299, SB 1304, SB 1317, SB 1325, SB 1326, SB 1328, SB 1332,
SB 1334, SB 1337, SB 1344, SB 1354, SB 1359, SB 1367, SB 1368, SB 1369,
SB 1374, SB 1377, SB 1382, SB 1402, SB 1403, SB 1409, SB 1410, SB 1436,
SB 1437, SB 1439, SB 1441, SB 1449, SB 1458, SB 1472, SB 1474, SB 1478,
SB 1483, SB 1485, SB 1492, SB 1495, SB 1514, SB 1515, SB 1522, SB 1526,
SB 1557, SB 1571, SB 1574, SB 1575, SB 1586, SB 1592, SB 1598, SB 1599,
SB 1609, SB 1612, SB 1616, SB 1617, SB 1620, SB 1629, SB 1633, SB 1645,
SB 1646, SB 1650, SB 1652, SB 1655, SB 1670, SB 1672, SB 1676, SB 1685,
SB 1693, SB 1699, SB 1701, SB 1705, SB 1712, SB 1715, SB 1723, SB 1728,
SB 1729, SB 1732, SB 1735, SB 1742, SB 1757, SB 1759, SB 1764, SB 1771,
SB 1774, SB 1777, SB 1782, SB 1795, SB 1798, SB 1803, SB 1804, SB 1806,
SB 1807, SB 1812, SB 1813, SB 1814, SB 1820, SB 1824, SB 1826, SB 1827,
SB 1844, SB 1847, SB 1853, SB 1876, SB 1878, SB 1896, SB 1903, SB 1929,
SB 1930, SB 1932, SB 1940, SB 1941, SB 1945, SB 1967, SB 1970, SB 1979,
SB 1982, SB 1984, SB 1992, SB 1997, SB 2028, SB 2033, SB 2041, SB 2047,
SB 2048, SB 2058, SB 2064, SB 2067, SB 2072, SB 2073, SB 2080, SB 2085,
SB 2093, SB 2135, SB 2148, SB 2153, SB 2178, SB 2182, SB 2197, SB 2217,
SB 2228, SB 2230, SB 2240, SB 2244, SB 2248, SB 2253, SB 2258, SB 2262,
SB 2274, SB 2279, SB 2298, SB 2306, SB 2312, SB 2314, SB 2324, SB 2340,
SB 2344, SB 2381, SB 2385, SB 2410, SB 2412, SB 2420, SB 2423, SB 2424,
SB 2435, SB 2438, SB 2442, SB 2445, SB 2453, SB 2454, SB 2456, SB 2460,
SB 2462, SB 2463, SB 2464, SB 2465, SB 2466, SB 2467, SB 2469, SB 2478,
SB 2479, SB 2480, SB 2483, SB 2485, SB 2486, SB 2495, SB 2496, SB 2501,
SB 2504, SB 2505, SB 2506, SB 2507, SB 2509, SB 2510, SB 2511, SB 2512,
SB 2513, SB 2514, SB 2515, SB 2517, SB 2518, SB 2519, SB 2520, SB 2521,
SB 2522, SB 2524, SB 2526, SB 2529, SB 2531, SB 2534, SB 2536, SB 2543,

SB 2550, SB 2552, SB 2553, SB 2554, SB 2565, SB 2569, SB 2570, SB 2577, SB 2580, SCR 5, SCR 10, SCR 11, SCR 22, SCR 38, SCR 42, SCR 64, SCR 65, SCR 67, SCR 72, SCR 73, SCR 76, SCR 78, SCR 79, SCR 81, SCR 82, SCR 84, SCR 85, SCR 86

FILED WITHOUT SIGNATURE OF GOVERNOR

June 19, 2009

SB 575, SB 1219, SB 1681, SB 1717

VETOED BY GOVERNOR

June 19, 2009

SB 223, SB 434, SB 488, SB 686, SB 978, SB 1206, SB 1343, SB 1440, SB 1760, SB 2141, SB 2169, SB 2325, SB 2468, SB 2558, SCR 59

SIGNED BY GOVERNOR

June 19, 2009

SB 1 (Line item veto)

VETO PROCLAMATIONS

The following Veto Proclamations by the Governor were filed with the Secretary of the Senate:

**PROCLAMATION
BY THE
GOVERNOR OF THE STATE OF TEXAS**

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14 of the Texas Constitution, I, Rick Perry, Governor of Texas, do hereby disapprove of and veto Senate Bill No. 223 of the 81st Texas Legislature, Regular Session, due to the following objections:

Senate Bill No. 223 would have given a governor the authority to grant a pardon to a person who had received a judgment of deferred adjudication in a criminal case. Before the authority could take effect, however, the voters also would have to pass a constitutional amendment granting that authority to a governor. The joint resolution that would have allowed the people of Texas to grant that authority to a governor did not pass during the 81st Legislative Regular Session, and Senate Bill No. 223 provided that, without the passage of the amendment, Senate Bill No. 223 had no effect.

Senator Royce West, Representative Senfronia Thompson and others have worked diligently to seek the passage of a good bill.

Currently, only a person who has been convicted of a crime is eligible for clemency consideration. A person who has received a judgment of deferred adjudication is not a convicted person, leaving a person who received a lesser form of punishment ineligible to receive clemency. That is not right or equitable.

Because the statutory authority must be re-enacted by a future legislature along with a joint resolution for a constitutional amendment that is approved by the people of Texas, I reluctantly veto Senate Bill No. 223 because it has no effect.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this the 19th day of June, 2009.

/s/Rick Perry
Governor of Texas

(Seal)

ATTESTED BY:

/s/Coby Shorter III
Deputy Secretary of State

PROCLAMATION
BY THE
GOVERNOR OF THE STATE OF TEXAS

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14 of the Texas Constitution, I, Rick Perry, Governor of Texas, do hereby disapprove of and veto Senate Bill No. 434 of the 81st Texas Legislature, Regular Session, due to the following objections:

Senate Bill No. 434 would create a pilot program that would allow transit buses to use highway shoulders during peak traffic times. Currently, shoulders may only be used by motorists in emergencies or by emergency vehicles. Allowing highway shoulders to be used by transit buses would leave no emergency lane, creating a danger to motorists, emergency personnel and passengers aboard transit buses.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this the 19th day of June, 2009.

/s/Rick Perry
Governor of Texas

(Seal)

ATTESTED BY:

/s/Coby Shorter III
Deputy Secretary of State

PROCLAMATION
BY THE
GOVERNOR OF THE STATE OF TEXAS

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14 of the Texas Constitution, I, Rick Perry, Governor of Texas, do hereby disapprove of and veto Senate Bill No. 488 of the 81st Texas Legislature, Regular Session, due to the following objections:

Senate Bill No. 488 would create a new class of users of roadways, called "vulnerable road users," which would require specific actions by operators of motor vehicles. These vulnerable road users would include pedestrians; highway construction and maintenance workers; tow truck operators; stranded motorists or passengers; people on horseback; bicyclists; motorcyclists; moped riders; and other similar road users.

Many road users placed into the category of vulnerable road users already have operation regulations and restrictions in statute. For example, a person operating a vehicle being drawn by an animal is subject to the same duties as a motor vehicle, and a pedestrian is required to yield the right of way to a motor vehicle, unless he or she is at an intersection or crosswalk.

While I am in favor of measures that make our roads safer for everyone, this bill contradicts much of the current statute and places the liability and responsibility on the operator of a motor vehicle when encountering one of these vulnerable road users. In addition, an operator of a motor vehicle is already subject to penalties when he or she is at fault for causing a collision or operating recklessly, whether it is against a "vulnerable user" or not.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this the 19th day of June, 2009.

/s/Rick Perry
Governor of Texas

(Seal)

ATTESTED BY:

/s/Coby Shorter III
Deputy Secretary of State

PROCLAMATION
BY THE
GOVERNOR OF THE STATE OF TEXAS

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14 of the Texas Constitution, I, Rick Perry, Governor of Texas, do hereby disapprove of and veto Senate Bill No. 686 of the 81st Texas Legislature, Regular Session, due to the following objections:

Senate Bill No. 686 would authorize natural gas pipelines to be located in state rights of way in certain designated areas of the state. While I agree that this would provide a benefit to communities and reduce the impact on private property owners, the bill conflicts with House Bill No. 2572, which was signed on June 19, 2009, and which accomplishes the same objectives statewide while ensuring that pipelines are installed using the highest safety standards.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this the 19th day of June, 2009.

/s/Rick Perry
Governor of Texas

(Seal)

ATTESTED BY:

/s/Coby Shorter III
Deputy Secretary of State

PROCLAMATION
BY THE
GOVERNOR OF THE STATE OF TEXAS

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14 of the Texas Constitution, I, Rick Perry, Governor of Texas, do hereby disapprove of and veto Senate Bill No. 978 of the 81st Texas Legislature, Regular Session, due to the following objections:

Senate Bill No. 978 expands the types of projects that may be undertaken by a Public Improvement District (PID) without adequately protecting property owners in the PID from incurring the sole or disproportionate costs of projects that clearly have a general municipal or regional benefit.

These districts were created to enable their residents to fund improvement projects specifically targeted to their respective districts. However, Senate Bill No. 978 broadens the definition of projects that qualify for PID funding to include those that may not directly benefit the property owners who are subject to paying for them. The bill compounds this problem by both permitting projects located outside the PID district and creating districts with non-contiguous acreage, creating a patchwork system that leaves taxpayers with little hope of determining who is paying for what benefit. Under such a scenario, residents of three physically separate parts of a city could be forced to pay for a project located in the county.

I am concerned that provisions of this bill threaten to violate Texans' rights under Article 1, section 17 of the Texas Constitution, which protects property owners from having to pay project assessments that are not to their direct benefit.

Ultimately, the bill leaves too many unanswered questions about the reach and financial impact of Public Improvement Districts on Texas property owners. I strongly encourage interested parties and their respective legislators to revisit this legislation with an eye toward increasing transparency and setting clearly defined limits on what taxpayers are being asked to fund.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this the 19th day of June, 2009.

/s/Rick Perry
Governor of Texas

(Seal)

ATTESTED BY:

/s/Coby Shorter III
Deputy Secretary of State

PROCLAMATION
BY THE
GOVERNOR OF THE STATE OF TEXAS

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Rick Perry, Governor of Texas, do hereby disapprove of and veto Senate Bill No. 1206 of the 81st Texas Legislature, Regular Session, due to the following objections:

Senate Bill No. 1206 would fundamentally alter the roles and responsibilities of the Board of Pardons and Paroles (Board) and the Texas Department of Criminal Justice (TDCJ) by allowing TDCJ to release an inmate prior to the date established by the Board for release on parole. Senate Bill No. 1206 allows TDCJ to determine that the inmate has successfully completed a rehabilitation program and has met certain conditions for release on parole as specified by the Board.

TDCJ's primary function is to manage inmates in state prisons, state jails and private correctional facilities, not to decide when to release those inmates.

I do not think these changes are necessary, and I am wary of the manner in which such changes would be accomplished. Reducing appropriations to TDCJ through a rider in the General Appropriations Act would put TDCJ under budgetary pressure when determining whether inmates have successfully completed rehabilitation programs and satisfied their conditions of release. Additionally, the cost savings estimates of this bill are calculated on the basis of a per diem cost, while most related operational costs for TDCJ are fixed.

But because I appreciate the goal of Senate Bill No. 1206 to not hold inmates longer than necessary, I am directing the Board and TDCJ to work together to ensure that offenders are not held for extended periods after successfully completing a rehabilitation program required by the Board as a condition for parole. They must set up procedures that provide for TDCJ to notify the Board of the successful completion of parole release requirements so that the Board may act to effect the release to parole.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this the 19th day of June, 2009.

/s/Rick Perry
Governor of Texas

(Seal)

ATTESTED BY:

/s/Coby Shorter III
Deputy Secretary of State

PROCLAMATION
BY THE
GOVERNOR OF THE STATE OF TEXAS

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14 of the Texas Constitution, I, Rick Perry, Governor of Texas, do hereby disapprove of and veto Senate Bill No. 1343 of the 81st Texas Legislature, Regular Session, due to the following objections:

Currently, higher education institutions may not receive formula funds for excess credit hours taken by students beyond the established cap, and they may charge students higher tuition rates for those hours. The cap is 30 hours above those required for the degree.

Senate Bill No. 1343 would exclude all dual-credit courses and all credit hours earned by students prior to receiving an associate degree from counting toward the excess credit hour cap, and would increase the cap to 90 or more hours above those required for a degree.

I have signed House Bill No. 101, which passed this session, because I agree with its provisions to exclude dual-credit courses from the excess credit hour cap.

A provision in Senate Bill No. 1343 that would exclude all community college hours from the cap would not effectively address the real problem that many transfer students face: the fact that some credits do not count toward their baccalaureate degrees. This wastes students' time and money, and taxpayer dollars.

The best solution is to improve articulation agreements and student advising so that students are able to transfer more hours to count toward their degrees. Instead, House Bill No. 1343 increases the cap to 90 or more hours above those required for a degree, removing important incentives for students and community colleges to focus on degree completion. The Texas Higher Education Coordinating Board is currently studying this issue, and I encourage the board members to continue looking for ways to ensure that more hours transfer. I am confident that they will find solutions that will benefit students and institutions.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this the 19th day of June, 2009.

/s/Rick Perry
Governor of Texas

(Seal)

ATTESTED BY:

/s/Coby Shorter III
Deputy Secretary of State

PROCLAMATION
BY THE
GOVERNOR OF THE STATE OF TEXAS

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Rick Perry, Governor of Texas, do hereby disapprove of and veto Senate Bill No. 1440 of the 81st Texas Legislature, Regular Session, due to the following objections:

As a result of *Gates v. Texas Department of Protective and Regulatory Services*, Senate Bill No. 1440 would establish guidelines for Texas Department of Family and Protective Services (DFPS) caseworkers to follow when making entry and transport-for-interview decisions in alleged child abuse and neglect cases. The court's decision in *Gates* is extremely narrow in its articulation of the standards that must be met for transporting a child to conduct an interview. The decision also creates uncertainty about how court orders allowing such transport are to be obtained by DFPS under existing law. This court-created uncertainty must be addressed. Senate Bill No. 1440, however, overreaches and may not give due consideration to the Fourth Amendment rights of a parent or guardian.

DFPS is charged with protecting the unprotected, and all parties involved benefit when procedures are clear and easily understood. Texas law should provide a clearly delineated investigative process that not only supports the rights of parents and guardians, but also provides DFPS with the proper authority and flexibility to protect the most vulnerable Texans.

I am directing DFPS, through its parental advisory committee, to study the effect of the *Gates* decision on the ability of the department to appropriately enter a residence and, if necessary for the protection of the child, to transport the child for interviews in a neutral location. I am also directing DFPS, through its parental advisory committee, to develop and recommend statewide procedures to follow when seeking court orders to aid investigations, while protecting the rights of parents and families.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this the 19th day of June, 2009.

/s/Rick Perry
Governor of Texas

(Seal)

ATTESTED BY:

/s/Coby Shorter III
Deputy Secretary of State

PROCLAMATION
BY THE
GOVERNOR OF THE STATE OF TEXAS

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Rick Perry, Governor of Texas, do hereby disapprove of and veto Senate Bill No. 1760 of the 81st Texas Legislature, Regular Session, due to the following objections:

Senate Bill No. 1760 would require the Texas Prepaid Higher Education Tuition Board to develop and implement the Texas Save and Match Program to assist qualifying beneficiaries who open a higher education savings plan (529 Plan) or purchase a prepaid tuition contract (Texas Tuition Promise Fund).

During the 80th Legislative Session, the Prepaid Higher Education Tuition Board was authorized to establish a Save and Match Program as part of the Texas Tuition Promise Fund. Earlier this year, the comptroller's office established a 501(c)(3) foundation to receive tax-deductible donations for the program based on the enabling legislation.

While I fully support this program, the legislation has an inadvertent drafting error that would no longer allow individuals to make tax-deductible donations to the foundation. My office will continue to work with the comptroller over the interim to draft new legislation to be considered by the 82nd Legislature.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this the 19th day of June, 2009.

/s/Rick Perry
Governor of Texas

(Seal)

ATTESTED BY:

/s/Coby Shorter III
Deputy Secretary of State

PROCLAMATION
BY THE
GOVERNOR OF THE STATE OF TEXAS

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Rick Perry, Governor of Texas, do hereby disapprove of and veto Senate Bill No. 2141 of the 81st Texas Legislature, Regular Session, due to the following objections:

Senate Bill No. 2141 clarifies the statute of repose that holds that lawsuits against engineers and architects must be filed within 10 years of substantial completion of a project. However, this bill would prohibit engineers and architects from being designated responsible third parties in litigation if the statute of repose has lapsed. Current law allows all potential responsible third parties to be designated as such, and juries are required to apportion fault among all potential parties at fault, including designated responsible third parties. This bill would distort the method of apportioning fault by not allowing potentially responsible architects and engineers to be included in the charge submitted to the jury, potentially allowing other defendants to be held accountable for faults that were not their own.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this the 19th day of June, 2009.

/s/Rick Perry
Governor of Texas

(Seal)

ATTESTED BY:

/s/Coby Shorter III
Deputy Secretary of State

PROCLAMATION
BY THE
GOVERNOR OF THE STATE OF TEXAS

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Rick Perry, Governor of Texas, do hereby disapprove of and veto Senate Bill No. 2169 of the 81st Texas Legislature, Regular Session, due to the following objections:

Senate Bill No. 2169 would create a new governmental body that would centralize the decision-making process in Austin for the planning of communities through an interagency work group on "smart growth" policy. Decisions about the growth of communities should be made by local governments closest to the people living and working in these areas. Local governments can already adopt "smart growth" policies based on the desires of the community without a state-led effort that endorses such planning. This legislation would promote a one-size-fits-all approach to land use and planning that would not work across a state as large and diverse as Texas.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this the 19th day of June, 2009.

/s/Rick Perry
Governor of Texas

(Seal)

ATTESTED BY:

/s/Coby Shorter III
Deputy Secretary of State

PROCLAMATION
BY THE
GOVERNOR OF THE STATE OF TEXAS

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Rick Perry, Governor of Texas, do hereby disapprove of and veto Senate Bill No. 2325 of the 81st Texas Legislature, Regular Session, due to the following objections:

Senate Bill No. 2325 would make "confidential and privileged" all discussions, thought processes and individual votes of members of the State Commission on Judicial Conduct; discussions or thought processes of employees and special counsel of the commission; and identity of a confidential complainant or informant. As the protections the commission needs in order to perform its duties are already provided in law, I am vetoing Senate Bill No. 2325.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this the 19th day of June, 2009.

/s/Rick Perry
Governor of Texas

(Seal)

ATTESTED BY:

/s/Coby Shorter III
Deputy Secretary of State

PROCLAMATION
BY THE
GOVERNOR OF THE STATE OF TEXAS

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Sections 14 and 15 of the Texas Constitution, I, Rick Perry, Governor of Texas, do hereby disapprove of and veto Senate Bill No. 2468 of the 81st Texas Legislature, Regular Session, due to the following objections:

Senate Bill No. 2468 is a piecemeal approach to addressing the issue of lobbying at the county and municipal level. The bill's restrictions on local government officers only apply to Harris County. However, if local

lobbying is an issue for one Texas political subdivision, then the legislature should consider the issue on a state-wide basis to avoid creating differing and confusing standards of ethical conduct. The Texas Constitution prohibits criminal penalties that apply in one part of the state but not in other parts. This bill would have created that unconstitutional situation.

The regulation of lobbying by former state officers and employees is governed by Government Code Section 572.054, which is under the jurisdiction of the Ethics Commission. I urge the sponsors of this bill to work with the Ethics Commission over the interim to develop appropriate language, similar to that found in Section 572.054, for legislative consideration that would apply uniform lobbying standards to all levels of Texas government.

Since the Legislature by its adjournment has prevented the return of this bill, I am filing these objections in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this the 19th day of June, 2009.

/s/Rick Perry
Governor of Texas

(Seal)

ATTESTED BY:

/s/Coby Shorter III
Deputy Secretary of State

PROCLAMATION
BY THE
GOVERNOR OF THE STATE OF TEXAS

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Rick Perry, Governor of Texas, do hereby disapprove of and veto Senate Bill No. 2558 of the 81st Texas Legislature, Regular Session, due to the following objections:

Senate Bill No. 2558 would allow beer and malt beverage tastings to be held in a branded vehicle on the premises of a retailer with a permit to sell alcohol, therefore allowing alcohol consumption in a vehicle. The Texas Alcoholic Beverage Commission would be required to increase its on-site inspections to ensure the proper precautions are taken to prevent serving to minors and over-consumption.

Senate Bill No. 2558, especially the requirement that these events be held in a branded promotional truck, also gives an unfair competitive advantage to large brewers, as smaller operations would be unable to afford to purchase or lease a brand-identified promotional vehicle.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this the 19th day of June, 2009.

/s/Rick Perry
Governor of Texas

(Seal)

ATTESTED BY:

/s/Coby Shorter III
Deputy Secretary of State

PROCLAMATION
BY THE
GOVERNOR OF THE STATE OF TEXAS

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14 of the Texas Constitution, I, Rick Perry, Governor of Texas, do hereby disapprove of and veto Senate Concurrent Resolution No. 59 of the 81st Texas Legislature, Regular Session, due to the following objections:

Senate Concurrent Resolution No. 59 would grant MBP Corp. permission to sue the Board of Trustees of the Galveston Wharves, a Galveston city utility, for breach of a lease and for invading its leasehold. In dispute is whether the lease permits the board to construct an air-conditioned walkway on the roof of Galveston's Mallory Building to allow cruise ship passengers access to ships.

Senate Concurrent Resolution No. 59 would have been acceptable if it had been limited to this provision and had capped damages for which Galveston taxpayers could ultimately have been held responsible.

The permission to sue granted by Senate Concurrent Resolution No. 59, however, is not limited to the dispute regarding the rooftop of the Mallory Building, and authorizes future suits on any property involved in the lease. Moreover, the resolution contains no cap on the damages for which the taxpayers could be ultimately held responsible under the litigation.

A lawsuit on this matter is currently pending in the 14th Court of Appeals of Texas. The court's decision on the sovereign immunity issue could eliminate the need for this resolution. If the court rules against it, MBP Corp. could return to the legislature for a resolution that limited the permission to sue to the matter at issue in the resolution and set a reasonable cap on the damages sought.

I will only support waivers of sovereign immunity that are specific as to the cause of action for which a governmental entity may be subject to suit, and that set a reasonable cap on damages.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this the 19th day of June, 2009.

/s/Rick Perry
Governor of Texas

(Seal)

ATTESTED BY:

/s/Coby Shorter III
Deputy Secretary of State