

SENATE JOURNAL

EIGHTY-SECOND LEGISLATURE — REGULAR SESSION

AUSTIN, TEXAS

PROCEEDINGS

FIFTY-FIFTH DAY

(Friday, May 6, 2011)

The Senate met at 10:09 a.m. pursuant to adjournment and was called to order by President Pro Tempore Ogden.

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

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

Chaplain Charles W. Edwards, Jr., Texas Army National Guard, was introduced by Senator Watson and offered the invocation as follows:

Our God of power and might, we thank You for a time of reflection to pause, to focus, and to unite as we offer this prayer of praise and appreciation for all who are assembled here and, especially, for those who are willing and ready to serve the people of our state, Members of the Senate of the great State of Texas. Be with our Senate Members in their deliberations today, empower them in their decision-making, the choices they make for the good of our state. Be with them in the days and weeks to come, to face the specific and challenging goals that they must encounter with bold determination and clear insight. We close this prayer by asking You, our God, to assist all of us in our ability to learn to do, do to earn, earn to live, and live to serve. Let us not grow weary in our commitment to service to our beloved state. God bless Texas, and let us as Texans be always thankful for God's blessings. In God we trust. Amen.

Senator Whitmire moved that the reading of the Journal of the proceedings of the previous day be dispensed with and the Journal be approved as printed.

The motion prevailed without objection.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

Friday, May 6, 2011 - 1

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 148 Flynn
Requesting that the Governor return House Bill No. 74 to the House of Representatives.

SB 201 Uresti Sponsor: Callegari
Relating to the calculation of ad valorem taxes on the residence homestead of a 100 percent or totally disabled veteran for the tax year in which the veteran qualifies or ceases to qualify for an exemption from taxation of the homestead.
(Amended)

SB 656 Huffman Sponsor: Bonnen
Relating to the abolition of the Coastal Coordination Council and the transfer of its functions to the General Land Office.
(Committee Substitute/Amended)

SB 748 Carona Sponsor: Giddings
Relating to business entities and associations.
(Amended)

SB 1153 Williams Sponsor: Ritter
Relating to the authority of the Public Utility Commission of Texas to participate in certain proceedings before the Federal Energy Regulatory Commission.
(Amended)

SB 1490 Uresti Sponsor: Hunter
Relating to the recording of proceedings and the issuance of a warrant to take physical custody of a child in certain suits affecting the parent-child relationship; creating an offense.

SB 1568 Estes Sponsor: Elkins
Relating to shareholder standing after a merger.

SB 1716 Duncan Sponsor: Fletcher
Relating to voidability of contracts procured through and liability arising from conduct constituting barratry; providing a civil penalty.

SJR 4 Hinojosa Sponsor: Ritter
Proposing a constitutional amendment providing for the issuance of additional general obligation bonds by the Texas Water Development Board.

THE HOUSE HAS CONCURRED IN THE SENATE AMENDMENTS TO THE FOLLOWING MEASURES:

HB 15 (94 Yeas, 41 Nays, 1 Present, not voting)

HB 600 (80 Yeas, 61 Nays, 3 Present, not voting)

HB 906 (141 Yeas, 0 Nays, 2 Present, not voting)

HB 984 (146 Yeas, 0 Nays, 1 Present, not voting)

THE HOUSE HAS REFUSED TO CONCUR IN THE SENATE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

HB 1555 (142 Yeas, 0 Nays, 1 Present, not voting)

House Conferees: Thompson - Chair/Allen/Eissler/Hartnett/Hochberg

HB 1956 (146 Yeas, 0 Nays, 1 Present, not voting)

House Conferees: Thompson - Chair/Gutierrez/Hamilton/Harless/Menendez

THE HOUSE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

SB 18 (145 Yeas, 0 Nays, 2 Present, not voting)

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

SENATE RESOLUTION 931

Senator Patrick offered the following resolution:

SR 931, Recognizing the participants in the Texas Honor Ride.

The resolution was read and was adopted without objection.

GUESTS PRESENTED

Senator Patrick was recognized and introduced to the Senate a Texas Honor Ride delegation.

The Senate welcomed its guests.

SENATE RESOLUTION 932

Senator Whitmire offered the following resolution:

SR 932, Congratulating Dr. Lannette Linthicum on receiving the 2011 E. R. Cass Correctional Achievement Award.

The resolution was read and was adopted without objection.

GUEST PRESENTED

Senator Whitmire was recognized and introduced to the Senate Lannette Linthicum.

The Senate welcomed its guest.

GUESTS PRESENTED

Senator Nichols was recognized and introduced to the Senate eighth-grade students from Devers ISD in Liberty County.

The Senate welcomed its guests.

MESSAGE FROM THE GOVERNOR

The following Message from the Governor was read and was filed with the Secretary of the Senate:

Austin, Texas
May 5, 2011

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE EIGHTY-SECOND TEXAS LEGISLATURE, REGULAR SESSION:

I, RICK PERRY, Governor of the State of Texas, pursuant to Article III, Section 5, of the Texas Constitution and by this special message, do hereby submit the following emergency matter for immediate consideration to the Senate and House of Representatives of the 82nd Legislature, now convened:

Legislation relating to the reform of civil remedies and procedures in the State of Texas.

Respectfully submitted,
/s/ Rick Perry
Governor

CONCLUSION OF MORNING CALL

The President Pro Tempore at 10:34 a.m. announced the conclusion of morning call.

SENATE BILL 1905 ON SECOND READING

Senator Uresti moved to suspend the regular order of business to take up for consideration **SB 1905** at this time on its second reading:

SB 1905, Relating to the provision of emergency services in certain rural counties using admission fees charged at state parks.

The motion prevailed.

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

The bill was read second time.

Senator Uresti offered the following amendment to the bill:

Floor Amendment No. 1

Amend **SB 1905** (senate committee printing) as follows:

(1) In SECTION 1 of the bill, in added Section 354.001(1), Local Government Code (page 1, line 17), between "20,000" and the semicolon, insert "that is adjacent to a county with an international border".

(2) In SECTION 1 of the bill, in added Section 354.051(a), Local Government Code (page 1, line 26), before "may", insert "and deposited in the state parks account under Section 11.035, Parks and Wildlife Code,".

The amendment to **SB 1905** was read and was adopted by a viva voce vote.

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

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

SB 1905 as amended was passed to engrossment by a viva voce vote.

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

Nays: Nichols.

SENATE BILL 1905 ON THIRD READING

Senator Uresti moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1905** be placed on its third reading and final passage.

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

Yeas: Birdwell, Carona, Davis, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hegar, Hinojosa, Huffman, Jackson, Lucio, Nelson, Ogden, Patrick, Rodriguez, Seliger, Shapiro, Uresti, Van de Putte, Watson, West, Whitmire, Williams, Zaffirini.

Nays: Nichols, Wentworth.

Reason for Vote

Senator Wentworth submitted the following reason for vote on suspension of the Constitutional Three-day Rule:

I cast a "No" vote on the procedural motion to suspend the Constitutional Rule requiring that bills be read on three several days in order to take up and consider **SB 1905**, because in my judgment no circumstance exists in this case to justify the extraordinary act of suspending a requirement of the Texas Constitution. The suspension of this Constitutional Rule has the direct and immediate effect of denying the people of Texas knowledge and notice of the passage of this measure until it has already been finally passed on third reading. Were we to have followed the requirement of the Texas Constitution, third reading and a vote on **SB 1905** would have occurred on the next legislative day, allowing for Texans to have learned through news reports of our second reading vote exactly what we had tentatively passed. Third reading and a vote on the next legislative day would also have allowed our professional staff an opportunity overnight to make sure any amendments passed on second reading are technically correct.

WENTWORTH

The bill was read third time and was passed by the following vote: Yeas 30, Nays 1.

Nays: Nichols.

**COMMITTEE SUBSTITUTE
SENATE BILL 1214 ON SECOND READING**

Senator Patrick moved to suspend the regular order of business to take up for consideration **CSSB 1214** at this time on its second reading:

CSSB 1214, Relating to equal opportunity for access by private and parochial school students to University Interscholastic League sponsored activities.

The motion prevailed.

Senators Duncan, Eltife, Fraser, Nichols, Uresti, Watson, Wentworth, and West asked to be recorded as voting "Nay" on suspension of the regular order of business.

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

The bill was read second time.

Senator Seliger offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 1214** as follows:

(1) In SECTION 1 of the bill, in the heading to added Section 33.0832, Education Code (senate committee printing, page 1, line 17), between "ACTIVITIES" and the period, insert "OTHER THAN FOOTBALL OR BASKETBALL".

(2) In SECTION 1 of the bill, in added Section 33.0832(b), Education Code (senate committee printing, page 1, line 22), between "activities" and the period, insert "other than football or basketball".

(3) In SECTION 1 of the bill, strike added Section 33.0832(i), Education Code (senate committee printing, page 2, lines 6-20), and substitute the following:

(i) Notwithstanding any other provision of this section, but subject to Subsection (h), the league shall implement this section by providing private and parochial schools with equal opportunity to participate in:

(1) league academic activities beginning with the 2011-2012 school year;

(2) league athletic activities, other than football or basketball, at the 1A and 2A league district levels beginning with the spring semester of the 2011-2012 school year;

(3) league athletic activities, other than football or basketball, at the 3A league district level beginning with the 2012-2013 school year;

(4) league athletic activities, other than football or basketball, at the 4A league district level beginning with the 2013-2014 school year; and

(5) league athletic activities, other than football or basketball, at the 5A league district level beginning with the 2014-2015 school year.

The amendment to **CSSB 1214** was read.

Senator Patrick temporarily postponed further consideration of **CSSB 1214**.

Question — Shall Floor Amendment No. 1 to **CSSB 1214** be adopted?

HOUSE BILL 46 ON SECOND READING

On motion of Senator Hinojosa and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 46** at this time on its second reading:

HB 46, Relating to compensatory time off for certain employees of the Parks and Wildlife Department.

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

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

HOUSE BILL 46 ON THIRD READING

Senator Hinojosa moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 46** be placed on its third reading and final passage.

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

Nays: Wentworth.

Reason for Vote

Senator Wentworth submitted the following reason for vote on suspension of the Constitutional Three-day Rule:

I cast a "No" vote on the procedural motion to suspend the Constitutional Rule requiring that bills be read on three several days in order to take up and consider **HB 46**, because in my judgment no circumstance exists in this case to justify the extraordinary act of suspending a requirement of the Texas Constitution. The suspension of this Constitutional Rule has the direct and immediate effect of denying the people of Texas knowledge and notice of the passage of this measure until it has already been finally passed on third reading. Were we to have followed the requirement of the Texas Constitution, third reading and a vote on **HB 46** would have occurred on the next legislative day, allowing for Texans to have learned through news reports of our second reading vote exactly what we had tentatively passed. Third reading and a vote on the next legislative day would also have allowed our professional staff an opportunity overnight to make sure any amendments passed on second reading are technically correct.

WENTWORTH

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

HOUSE BILL 1625 ON SECOND READING

Senator Carona moved to suspend the regular order of business to take up for consideration **HB 1625** at this time on its second reading:

HB 1625, Relating to the renewal of electrical sign apprentice licenses.

The motion prevailed.

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

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

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

Nays: Estes.

HOUSE BILL 1625 ON THIRD READING

Senator Carona moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1625** be placed on its third reading and final passage.

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

Nays: Estes.

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

COMMITTEE SUBSTITUTE SENATE BILL 1806 ON SECOND READING

On motion of Senator Lucio and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1806** at this time on its second reading:

CSSB 1806, Relating to timely filing of a surplus lines policy; providing penalties.

The bill was read second time.

Senator Lucio offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 1806** (senate committee printing) in SECTION 2 of the bill, in the transition provision, by striking Subsections (b) and (c) (page 2, lines 9 through 20) and substituting the following:

(b) Section 981.105, Insurance Code, as amended by this Act, applies to an action to enforce Section 981.105, Insurance Code, that is:

(1) pending on the effective date of this Act;

(2) brought on or after the effective date of this Act against a surplus lines agent for policies filed after the filing deadline prescribed by Subsection (a), Section 981.105, Insurance Code, and filed during the 2010 calendar year; or

(3) brought on or after the effective date of this Act against a surplus lines agent for policies filed after the filing deadline prescribed by Subsection (a), Section 981.105, Insurance Code, and filed during the 2011 calendar year.

(c) Not later than December 1, 2011, the Texas Department of Insurance shall provide notice to each surplus lines agent to which Subdivisions (1) and (2) of Subsection (b) of this section apply of the amount of fees assessed. The surplus lines agent shall pay the fee not later than the 30th day after the date of the notice.

(d) The notice and payment provisions described by Subsection (i), Section 981.105, Insurance Code, as added by this Act, apply to policies filed during or after the 2011 calendar year.

The amendment to **CSSB 1806** was read and was adopted by a viva voce vote.

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

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

CSSB 1806 as amended was passed to engrossment by a viva voce vote.

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

COMMITTEE SUBSTITUTE SENATE BILL 1806 ON THIRD READING

Senator Lucio moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1806** be placed on its third reading and final passage.

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

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

HOUSE BILL 1032 ON SECOND READING

On motion of Senator Davis and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1032** at this time on its second reading:

HB 1032, Relating to a rescission period for annuity contracts.

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

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

HOUSE BILL 1032 ON THIRD READING

Senator Davis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1032** be placed on its third reading and final passage.

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

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

COMMITTEE SUBSTITUTE SENATE BILL 1214 ON SECOND READING

The President Pro Tempore laid before the Senate **CSSB 1214** by Senator Patrick on its second reading. The bill had been read second time, an amendment offered, and further consideration temporarily postponed:

CSSB 1214, Relating to equal opportunity for access by private and parochial school students to University Interscholastic League sponsored activities.

Question — Shall Floor Amendment No. 1 to **CSSB 1214** be adopted?

Senator Seliger withdrew Floor Amendment No. 1.

Senator Seliger offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSSB 1214** as follows:

(1) In SECTION 1 of the bill, in the heading to added Section 33.0832, Education Code (senate committee printing, page 1, line 17), between "ACTIVITIES" and the period, insert "OTHER THAN FOOTBALL OR BASKETBALL".

(2) In SECTION 1 of the bill, in added Section 33.0832(b), Education Code (senate committee printing, page 1, line 22), between "activities" and the period, insert "other than football or basketball".

(3) In SECTION 1 of the bill, strike added Section 33.0832(i), Education Code (senate committee printing, page 2, lines 6-20), and substitute the following:

(i) Notwithstanding any other provision of this section, but subject to Subsection (h), the league shall implement this section by providing private and parochial schools with equal opportunity to participate in:

(1) league academic activities beginning with the 2011-2012 school year;

(2) league athletic activities, other than football or basketball, at the 1A and 2A league district levels beginning with the spring semester of the 2011-2012 school year;

(3) league athletic activities, other than football or basketball, at the 3A league district level beginning with the 2012-2013 school year;

(4) league athletic activities, other than football or basketball, at the 4A league district level beginning with the 2013-2014 school year; and

(5) league athletic activities, other than football or basketball, at the 5A league district level beginning with the 2014-2015 school year.

(6) Nothing in this section affects the right of a private school participating in league activities during the 2010-11 school year to continue participating in league activities in subsequent school years in a manner comparable to the school's participation during the 2010-11 school year.

The amendment to **CSSB 1214** was read and was adopted by the following vote: Yeas 29, Nays 1, Present-not voting 1.

Yeas: Birdwell, Carona, Davis, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hegar, Hinojosa, Huffman, Jackson, Lucio, Nelson, Nichols, Patrick, Rodriguez, Seliger, Shapiro, Uresti, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Ogden.

Present-not voting: Van de Putte.

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

CSSB 1214 as amended was passed to engrossment by the following vote: Yeas 21, Nays 8, Present-not voting 1.

Yeas: Birdwell, Carona, Davis, Deuell, Ellis, Estes, Gallegos, Harris, Hinojosa, Huffman, Jackson, Lucio, Nelson, Ogden, Patrick, Rodriguez, Seliger, Shapiro, Whitmire, Williams, Zaffirini.

Nays: Duncan, Eltife, Fraser, Hegar, Nichols, Uresti, Watson, Wentworth.

Present-not voting: Van de Putte.

Absent: West.

**COMMITTEE SUBSTITUTE
SENATE BILL 1214 ON THIRD READING**

Senator Patrick moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1214** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 24, Nays 5, Present-not voting 1.

Yeas: Birdwell, Carona, Davis, Deuell, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hegar, Hinojosa, Huffman, Jackson, Lucio, Nelson, Ogden, Patrick, Rodriguez, Seliger, Shapiro, Whitmire, Williams, Zaffirini.

Nays: Duncan, Nichols, Uresti, Watson, Wentworth.

Present-not voting: Van de Putte.

Absent: West.

The bill was read third time and was passed by the following vote: Yeas 21, Nays 8, Present-not voting 1.

Yeas: Birdwell, Carona, Davis, Deuell, Ellis, Estes, Gallegos, Harris, Hinojosa, Huffman, Jackson, Lucio, Nelson, Ogden, Patrick, Rodriguez, Seliger, Shapiro, Whitmire, Williams, Zaffirini.

Nays: Duncan, Eltife, Fraser, Hegar, Nichols, Uresti, Watson, Wentworth.

Present-not voting: Van de Putte.

Absent: West.

REASON FOR VOTE

Senator Van de Putte submitted the following reason for vote on **CSSB 1214**:

Because I have a family member within the first degree of consanguinity who might benefit from the passage of Senate Bill 1214, I respectfully ask to be shown as present-not voting.

VAN DE PUTTE

**COMMITTEE SUBSTITUTE
SENATE BILL 1729 ON SECOND READING**

Senator Zaffirini moved to suspend the regular order of business to take up for consideration **CSSB 1729** at this time on its second reading:

CSSB 1729, Relating to the Texas Science, Technology, Engineering, and Mathematics (T-STEM) Challenge Scholarship program.

The motion prevailed.

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

The bill was read second time and was passed to engrossment by the following vote: Yeas 28, Nays 2.

Yeas: Birdwell, Carona, Davis, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hegar, Hinojosa, Huffman, Jackson, Lucio, Nichols, Patrick, Rodriguez, Seliger, Shapiro, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Zaffirini.

Nays: Nelson, Ogden.

Absent: Williams.

**COMMITTEE SUBSTITUTE
SENATE BILL 1729 ON THIRD READING**

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1729** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 2.

Yeas: Birdwell, Carona, Davis, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hegar, Hinojosa, Huffman, Jackson, Lucio, Nichols, Patrick, Rodriguez, Seliger, Shapiro, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Zaffirini.

Nays: Nelson, Ogden.

Absent: Williams.

The bill was read third time and was passed by the following vote: Yeas 28, Nays 2. (Same as previous roll call)

**COMMITTEE SUBSTITUTE
SENATE BILL 1417 ON SECOND READING**

On motion of Senator Hinojosa and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1417** at this time on its second reading:

CSSB 1417, Relating to the limitation of liability of certain landowners.

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

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

**COMMITTEE SUBSTITUTE
SENATE BILL 1417 ON THIRD READING**

Senator Hinojosa moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1417** be placed on its third reading and final passage.

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

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

LEAVE OF ABSENCE

On motion of Senator Whitmire, Senator Williams was granted leave of absence for the remainder of the day on account of important business.

**COMMITTEE SUBSTITUTE
SENATE BILL 546 ON THIRD READING**

Senator Deuell moved to suspend the regular order of business to take up for consideration **CSSB 546** at this time on its third reading and final passage:

CSSB 546, Relating to the dispensing of certain drugs by physicians.

The motion prevailed by the following vote: Yeas 20, Nays 10.

Yeas: Birdwell, Carona, Deuell, Ellis, Eltife, Estes, Harris, Hegar, Huffman, Jackson, Nelson, Nichols, Ogden, Patrick, Rodriguez, Seliger, Watson, West, Whitmire, Zaffirini.

Nays: Davis, Duncan, Fraser, Gallegos, Hinojosa, Lucio, Shapiro, Uresti, Van de Putte, Wentworth.

Absent-excused: Williams.

The bill was read third time.

Senator Deuell offered the following amendment to the bill:

Floor Amendment No. 1 on Third Reading

Amend **CSSB 546** on third reading, in SECTION 1 of the bill, in amended Section 158.001(b), Occupations Code, between the second and third sentences, by inserting "A physician may not under this section dispense a Schedule II-V controlled substance as specified under Chapter 481, Health and Safety Code."

The amendment to **CSSB 546** was read and was adopted by a viva voce vote.

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

Absent-excused: Williams.

Senator Deuell offered the following amendment to the bill:

Floor Amendment No. 2 on Third Reading

Amend **CSSB 546** on third reading by:

(1) adding "Except as provided by Subsection (d)," to the beginning of Subsection (b), Section 158.001, Occupations Code

(2) adding a new Subsection (d), Section 158.001, Occupations Code to read as follows:

"(d) Subsection (b) does not apply to workers' compensation insurance coverage as defined by Section 401.011, Labor Code."

(3) adding a new SECTION 2 of the bill by adding a new Section 158.0011, Occupations Code to read as follows:

"SECTION 2. Title 3, Subchapter B, Chapter 158, Occupations Code is amended by adding a new Section 158.0011 to read as follows:

Sec. 158.0011. DISPENSING OF DANGEROUS DRUGS FOR WORKERS' COMPENSATION INSURANCE COVERAGE IN CERTAIN RURAL AREAS. (a) In this section, "reimbursement for cost" means an additional charge, separate from that imposed for the physician's professional services, that includes the cost of the drug product and all other actual costs to the physician incidental to providing the dispensing service. The term does not include a separate fee imposed for the act of dispensing the drug itself.

(b) This section applies to an area located in a county with a population of 5,000 or less, or in a municipality or an unincorporated town with a population of less than 2,500, that is within a 15-mile radius of the physician's office and in which a pharmacy is not located. This section does not apply to a municipality or an unincorporated town that is adjacent to a municipality with a population of 2,500 or more.

(c) A physician who practices medicine in an area described by Subsection (b) may:

(1) maintain a supply of dangerous drugs in the physician's office to be dispensed in the course of treating the physician's patients; and

(2) be reimbursed for the cost of supplying those drugs without obtaining a license under Chapter 558.

(d) A physician who dispenses dangerous drugs under Subsection (c) shall:

(1) comply with each labeling provision under Subtitle J applicable to that class of drugs; and

(2) oversee compliance with packaging and recordkeeping provisions applicable to that class of drugs.

(e) A physician who desires to dispense dangerous drugs under this section shall notify both the Texas State Board of Pharmacy and the board that the physician practices in an area described by Subsection (b). The physician may continue to dispense dangerous drugs in the area until the Texas State Board of Pharmacy determines, after notice and hearing, that the physician no longer practices in an area described by Subsection (b)."

The amendment to **CSSB 546** was read and was adopted by a viva voce vote.

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

Absent-excused: Williams.

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

CSSB 546 as amended was finally passed by the following vote: Yeas 17, Nays 13.

Yeas: Birdwell, Deuell, Ellis, Eltife, Estes, Harris, Hegar, Huffman, Jackson, Nelson, Nichols, Ogden, Patrick, Rodriguez, Seliger, West, Zaffirini.

Nays: Carona, Davis, Duncan, Fraser, Gallegos, Hinojosa, Lucio, Shapiro, Uresti, Van de Putte, Watson, Wentworth, Whitmire.

Absent-excused: Williams.

HOUSE BILL 1346 ON SECOND READING

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1346** at this time on its second reading:

HB 1346, Relating to the consistent use of the term "game warden" throughout the Parks and Wildlife Code.

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

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

Absent-excused: Williams.

HOUSE BILL 1346 ON THIRD READING

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1346** be placed on its third reading and final passage.

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

Absent-excused: Williams.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

(Senator Eltife in Chair)

SENATE BILL 1420 WITH HOUSE AMENDMENTS

Senator Hinojosa called **SB 1420** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Amendment

Amend **SB 1420** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to the continuation and functions of the Texas Department of Transportation; providing penalties.

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

SECTION 1. Section 201.001, Transportation Code, is amended by adding Subsection (c) to read as follows:

(c) In this chapter, "local transportation entity" means an entity that participates in the transportation planning process, including:

- (1) a regional tollway authority under Chapter 366;
- (2) a regional transportation authority under Chapter 452;
- (3) a rural transit district under Chapter 458; or
- (4) a metropolitan planning organization under Subchapter D, Chapter 472.

SECTION 2. Section 201.051, Transportation Code, is amended by amending Subsections (d), (f), (g), (h), and (j) and adding Subsection (b-1) to read as follows:

(b-1) A member of the commission may not accept a contribution to a campaign for election to an elected office. If a commissioner accepts a campaign contribution, the person is considered to have resigned from the office and the office immediately becomes vacant. The vacancy shall be filled in the manner provided by law.

(d) A ~~[Except as provided by Subsection (e), a]~~ person is not eligible to serve ~~[for appointment]~~ as a member of the commission if the person or the person's spouse:

- (1) is employed by or participates in the management of a business entity or other organization that is regulated by or receives funds from the department;
- (2) directly or indirectly owns or controls more than 10 percent interest in a business entity or other organization that is regulated by or receives funds from the department;
- (3) uses or receives a substantial amount of tangible goods, services, or funds from the department, other than compensation or reimbursement authorized by law for commission membership, attendance, or expenses; or
- (4) is registered, certified, or licensed by the department.

(f) An officer, employee, or paid consultant of a Texas trade association in the field of road construction or maintenance, aviation, or outdoor advertising is not eligible to serve as ~~[or a Texas trade association of automobile dealers may not be]~~ a member of the commission.

(g) The spouse of an officer, manager, or paid consultant of a Texas trade association in the field of road construction or maintenance, aviation, or outdoor advertising is not eligible to serve as ~~[or a Texas association of automobile dealers may not be]~~ a member of the commission.

(h) A person required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the department is not eligible to ~~[may not]~~ serve as a member of the commission.

(j) In this section, "Texas trade association" means a ~~[nonprofit,]~~ cooperative~~[-]~~ and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

SECTION 3. Section 201.053(a), Transportation Code, is amended to read as follows:

(a) The governor ~~[periodically]~~ shall designate one commissioner as the chair of the commission, who shall serve as presiding officer of the commission.

SECTION 4. Section 201.057(a), Transportation Code, is amended to read as follows:

(a) It is a ground for removal from the commission if a commissioner:

- (1) does not have at the time of taking office [~~appointment~~] or maintain during service on the commission the qualifications required by Section 201.051;
- (2) violates a prohibition provided by Section 201.051;
- (3) cannot discharge the commissioner's duties for a substantial part of the term for which the commissioner is appointed because of illness or disability; or
- (4) is absent from more than half of the regularly scheduled commission meetings that the commissioner is eligible to attend during a calendar year, unless the absence is excused by majority vote of the commission.

SECTION 5. Section 201.058, Transportation Code, is amended to read as follows:

Sec. 201.058. INFORMATION ON QUALIFICATIONS AND CONDUCT. The department shall provide to the members of the commission, as often as necessary, information concerning the members' qualifications for office [~~under Subchapter B~~] and their responsibilities under applicable laws relating to standards of conduct for state officers.

SECTION 6. (a) Subchapter C, Chapter 201, Transportation Code, is amended by adding Section 201.1075 to read as follows:

Sec. 201.1075. CHIEF FINANCIAL OFFICER. (a) The department shall employ a chief financial officer. The chief financial officer must be a certified public accountant who is licensed and in good standing in this state.

(b) The chief financial officer shall oversee the department's financial activities, including:

- (1) managing department debt and debt portfolio;
- (2) programming and scheduling of transportation projects; and
- (3) letting and management activities associated with project delivery and certifying project letting.

(c) The chief financial officer may contract with experts and consultants to assist the department:

- (1) in matters involving debt management, comprehensive development agreements, regional mobility authorities, toll roads, or public-private partnerships; and

- (2) in exploring other mechanisms to finance transportation projects.

(d) The chief financial officer shall ensure that the department's financial activities are conducted in a transparent and reliable manner.

(e) The chief financial officer shall report to the director.

(b) Section 201.1075, Transportation Code, as added by this section, does not apply to a person serving as the chief financial officer of the Texas Department of Transportation immediately before the effective date of this Act. Section 201.1075, Transportation Code, as added by this section, applies only to a chief financial officer whose employment begins on or after the effective date of this Act.

SECTION 7. Subchapter C, Chapter 201, Transportation Code, is amended by adding Sections 201.118 and 201.119 to read as follows:

Sec. 201.118. NEGOTIATED RULEMAKING; ALTERNATIVE DISPUTE RESOLUTION PROCEDURES. (a) The commission shall develop and implement a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008, Government Code, for the adoption of department rules; and

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

(b) The department's procedures relating to alternative dispute resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) The department shall:

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

(a);

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

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

Sec. 201.119. DIRECTOR PARTICIPATION IN RETIREMENT SYSTEM. (a) In this section, "retirement system" means the Employees Retirement System of Texas.

(b) The commission may offer the director optional participation in the retirement system.

(c) Notwithstanding Section 812.003, Government Code, the director is not required to be a member of the retirement system if:

(1) the director is offered under this section the option of whether to be a member of the system; and

(2) the director elects not to be a member of the system.

(d) If the director elects under Subsection (c) not to be a member of the retirement system, the annual salary set as compensation for the position is increased by the amount that the state would have contributed to the retirement program for that position for that year if the person were a member of the system.

(e) An election under this section does not affect the director's eligibility to participate as an employee in the group benefits program under Chapter 1551, Insurance Code.

SECTION 8. Section 201.204, Transportation Code, is amended to read as follows:

Sec. 201.204. SUNSET PROVISION. The Texas Department of Transportation is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the department is abolished September 1, ~~2015~~ ~~[2011]~~.

SECTION 9. Subchapter D, Chapter 201, Transportation Code, is amended by adding Section 201.2041 to read as follows:

Sec. 201.2041. SUBMISSION OF FINANCIAL AUDIT TO SUNSET COMMISSION. (a) The department shall submit with its agency report under Section 325.007, Government Code, a complete and detailed financial audit conducted by an independent certified public accountant.

(b) Subsection (a) does not apply if the department is subject to sunset review during the previous two-year period.

SECTION 10. Subchapter D, Chapter 201, Transportation Code, is amended by adding Sections 201.210 and 201.211 to read as follows:

Sec. 201.210. LEGISLATIVE LOBBYING. (a) In addition to Section 556.006, Government Code, the commission or a department employee may not use money under the department's control or engage in an activity to influence the passage or defeat of legislation.

(b) Violation of Subsection (a) is grounds for dismissal of an employee.

(c) This section does not prohibit the commission or department employee from using state resources to:

(1) provide public information or information responsive to a request; or

(2) communicate with officers and employees of the federal government regarding federal appropriations and programs.

(d) The department may not spend any money appropriated to the department for the purpose of selecting, hiring, or retaining a person required to register under Chapter 305, Government Code, or the Lobbying Disclosure Act of 1995 (2 U.S.C. Section 1601 et seq.), unless that expenditure is allowed under other law.

Sec. 201.211. ETHICS AFFIRMATION AND HOTLINE. (a) A department employee shall annually affirm the employee's adherence to the ethics policy adopted under Section 572.051(c), Government Code.

(b) The department shall establish and operate a telephone hotline that enables a person to call the hotline number, anonymously or not anonymously, to report alleged fraud, waste, or abuse or an alleged violation of the ethics policy adopted under Section 572.051(c), Government Code.

SECTION 11. Section 201.401(a), Transportation Code, is amended to read as follows:

(a) A person may not be an employee of the department who is employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), ~~exempt from the state's position classification plan or compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule~~ if the person is:

(1) an officer, employee, or paid consultant of a Texas trade association[~~;~~

~~(A)] in the field of road construction or maintenance or outdoor advertising; or~~

~~(B) of automobile dealers; or]~~

(2) the spouse of an officer, manager, or paid consultant described by Subdivision (1).

SECTION 12. Section 201.404, Transportation Code, is amended by adding Subsections (b-1) and (b-2) to read as follows:

(b-1) If an annual performance evaluation indicates unsatisfactory performance by an employee employed in a position at or above the level of district engineer, the commission shall consider whether the employee should be terminated. The annual performance evaluation of a position described by this subsection must include an evaluation of an employee's:

(1) professionalism;

(2) diligence; and

(3) responsiveness to directives and requests from the commission and the legislature.

(b-2) If an annual performance evaluation indicates unsatisfactory performance by an employee employed in a position that is below the level of district engineer, the department shall consider whether the employee should be terminated. The department shall provide a report to the commission regarding employees whose performances were unsatisfactory but who were not terminated.

SECTION 13. Chapter 201, Transportation Code, is amended by adding Subchapter F-1 to read as follows:

SUBCHAPTER F-1. INSPECTOR GENERAL

Sec. 201.451. INSPECTOR GENERAL. (a) The commission may appoint an inspector general who reports to the commission.

(b) If appointed, the inspector general shall:

(1) audit the department's financial condition and the efficiency of its business practices;

(2) evaluate the efficiency of the department's administrative practices and performance, including business plan performance measures, relationships with metropolitan planning organizations, performance of department districts and offices, and the need for standardization;

(3) identify the need and opportunities for reductions in staff and the need for a better or differently skilled workforce;

(4) study the implementation of and improvements to a commitment-based budget or business plan based on outcomes;

(5) identify ways to streamline the environmental approval process;

(6) evaluate compliance with applicable laws and legislative intent; and

(7) evaluate the efficient use of available funding, personnel, equipment, and office space.

Sec. 201.452. COOPERATION AND COORDINATION WITH STATE AUDITOR. (a) An inspector general's review does not take precedence over the state auditor's review.

(b) The inspector general may meet with the state auditor's office to coordinate a review conducted under this subchapter, share information, or schedule work plans.

(c) In addition to the authority in Chapter 321, Government Code, the state auditor is entitled to access all information maintained by the inspector general, including vouchers, electronic data, internal records, and other information.

(d) Any information obtained or provided by the state auditor under this section is confidential and not subject to disclosure under Chapter 552, Government Code.

Sec. 201.453. FINAL REVIEW REPORTS. (a) The inspector general shall prepare a final report for each review conducted under Section 201.451. The final report must include:

(1) a summary of the activities performed by the inspector general in conducting the review; and

(2) a description of any findings in connection with a review conducted under Section 201.451.

(b) An inspector general's final reports are subject to disclosure under Chapter 552, Government Code.

(c) Unless otherwise prohibited by this chapter or other law, the inspector general shall deliver a copy of each final report that concerns the implementation or administration of a state or federally funded program to:

(1) the commission and the executive director;

(2) the governor;

(3) the lieutenant governor;

(4) the speaker of the house of representatives;

(5) the state auditor; and

(6) the appropriate legislative oversight committees.

SECTION 14. Section 201.601, Transportation Code, is amended to read as follows:

Sec. 201.601. STATEWIDE TRANSPORTATION PLAN. (a) The department shall develop a statewide transportation plan covering a period of at least 20 years. The plan must include:

(1) the statewide transportation improvement program;

(2) a 10-year developmental program to guide the development of and authorize construction of transportation projects for the mid-term period of the statewide transportation improvement program; and

(3) specific, long-term transportation goals for ~~that contains~~ all modes of transportation, including:

(A) ~~(1)~~ highways and turnpikes;

(B) ~~(2)~~ aviation;

(C) ~~(3)~~ mass transportation;

(D) ~~(4)~~ railroads and high-speed railroads; and

(E) ~~(5)~~ water traffic.

(a-1) The plan must:

(1) contain specific, long-term transportation goals for the state and measurable targets for each goal;

(2) identify priority projects or areas of the state that are of particular concern to the department in meeting the goals established under Subdivision (1); and

(3) contain a participation plan specifying methods for obtaining formal input on the goals and priorities identified under this subsection from:

(A) other state agencies;

(B) political subdivisions;

(C) local transportation entities; and

(D) the general public.

(b) ~~[In developing the plan, the department shall seek opinions and assistance from other state agencies and political subdivisions that have responsibility for the modes of transportation listed by Subsection (a).]~~ As appropriate, the department and the entities listed in Subsection (a-1)(3) ~~[such an agency or political subdivision]~~ shall enter into a memorandum of understanding relating to the planning of transportation services.

(c) The plan must include a component that is not financially constrained and identifies transportation improvements designed to relieve congestion. In developing this component of the plan, the department shall seek opinions and assistance from officials who have local responsibility for modes of transportation listed in Subsection (a).

(d) ~~[The plan shall include a component, published annually, that describes the evaluation of transportation improvements based on performance measures, such as indices measuring delay reductions or travel time improvements.]~~ The department shall consider the goals and measurable targets established under Subsection (a-1)(1) ~~[the performance measures]~~ in selecting transportation projects ~~[improvements]~~.

(e) The department annually shall provide to the lieutenant governor, the speaker of the house of representatives, and the chair of the standing committee of each house of the legislature with primary jurisdiction over transportation issues an analysis of the department's progress in attaining the goals under Subsection (a-1)(1). The department shall make the information under this subsection available on its Internet website.

(f) The department shall update the plan every four years, or more frequently if necessary.

SECTION 15. Subchapter H, Chapter 201, Transportation Code, is amended by adding Section 201.6015 to read as follows:

Sec. 201.6015. INTEGRATION OF PLANS AND POLICY EFFORTS. In developing each of its transportation plans and policy efforts, the department must clearly reference the statewide transportation plan under Section 201.601 and specify how the plan or policy effort supports or otherwise relates to the specific goals under that section.

SECTION 16. Section 201.616(a), Transportation Code, is amended to read as follows:

(a) Not later than December 1 of each year, the department shall submit a report to the legislature that details:

(1) the expenditures made by the department in the preceding state fiscal year in connection with:

(A) the developmental ~~[unified transportation]~~ program of the department;

(B) turnpike projects and toll roads of the department;

(C) the Trans-Texas Corridor;

(D) rail facilities described in Chapter 91; and

(E) non-highway facilities on the Trans-Texas Corridor if those expenditures are subject to Section 227.062(c);

(2) the amount of bonds or other public securities issued for transportation projects; and

(3) the direction of money by the department to a regional mobility authority in this state.

SECTION 17. Subchapter H, Chapter 201, Transportation Code, is amended by adding Section 201.620 to read as follows:

Sec. 201.620. COORDINATION WITH METROPOLITAN PLANNING ORGANIZATIONS TO DEVELOP LONG-TERM PLANNING ASSUMPTIONS. The department shall collaborate with metropolitan planning organizations to develop mutually acceptable assumptions for the purposes of long-range federal and state funding forecasts and use those assumptions to guide long-term planning in the statewide transportation plan under Section 201.601.

SECTION 18. Section 201.710(c), Transportation Code, is amended to read as follows:

(c) The department shall include projects related to ports of entry in its developmental ~~[unified transportation]~~ program or any successor to that program.

SECTION 19. (a) Section 201.801, Transportation Code, is amended to read as follows:

Sec. 201.801. ~~[INFORMATION ABOUT DEPARTMENT;]~~ COMPLAINTS.

(a) The department shall maintain a system to promptly and efficiently act on complaints filed with the department. The department shall maintain information about the parties to and the subject matter of a complaint and a summary of the results of the review or investigation of the complaint and the disposition of the complaint.

(b) The department shall make information available describing its procedures for complaint investigation and resolution ~~[prepare information of public interest describing the functions of the department and the department's procedures by which a complaint is filed with the department and resolved by the department. The department shall make the information available to the public and appropriate state agencies].~~

~~[(b) The commission by rule shall establish methods by which consumers and service recipients are notified of the department's name, mailing address, and telephone number for directing complaints to the department. The commission may provide for that notification:~~

~~[(1) on each registration form, application, or written contract for services of an individual or entity regulated by the department;~~

~~[(2) on a sign prominently displayed in the place of business of each individual or entity regulated by the department; or~~

~~[(3) in a bill for service provided by an individual or entity regulated by the department.]~~

(c) ~~[The department shall:~~

~~[(1) keep an information file about each written complaint filed with the department that the department has the authority to resolve; and~~

~~[(2) provide the person who filed the complaint, and each person or entity that is the subject of the complaint, information about the department's policies and procedures relating to complaint investigation and resolution.~~

~~[(d)] The department[at least quarterly and until final disposition of a written complaint that is filed with the department and that the department has the authority to resolve,] shall periodically notify the parties to the complaint of its status until final disposition unless the notice would jeopardize an undercover investigation.~~

~~(d) The commission shall adopt rules applicable to each division and district to establish a process to act on complaints filed with the department ~~[(e) With regard to each complaint filed with the department, the department shall keep the following information:~~~~

~~[(1) the date the complaint is filed;~~

~~[(2) the name of the person filing the complaint;~~

~~[(3) the subject matter of the complaint;~~

~~[(4) a record of each person contacted in relation to the complaint;~~

~~[(5) a summary of the results of the review or investigation of the complaint; and~~

~~[(6) if the department takes no action on the complaint, an explanation of the reasons that no action was taken].~~

(e) The department shall develop a standard form for submitting a complaint and make the form available on its Internet website. The department shall establish a method to submit complaints electronically.

(f) The department shall develop a method for analyzing the sources and types of complaints and violations and establish categories for the complaints and violations. The department shall use the analysis to focus its information and education efforts on specific problem areas identified through the analysis.

(g) The department shall:

(1) compile:

(A) detailed statistics and analyze trends on complaint information, including:

(i) the nature of the complaints;

(ii) their disposition; and

(iii) the length of time to resolve complaints;

(B) complaint information on a district and a divisional basis; and

(C) the number of similar complaints filed, and the number of persons who filed each complaint; and

(2) report the information, statistics, and analysis on a monthly basis to the division directors, office directors, and district engineers and on a quarterly basis to the commission.

(b) The Texas Transportation Commission shall adopt rules under Section 201.801, Transportation Code, as amended by this section, not later than March 1, 2012.

SECTION 20. Section 201.802(a), Transportation Code, is amended to read as follows:

(a) The commission shall develop and implement policies that provide the public with a reasonable opportunity to appear before the commission and speak on any issue under the jurisdiction of the department ~~[commission]~~.

SECTION 21. Subchapter J, Chapter 201, Transportation Code, is amended by adding Sections 201.807, 201.808, 201.809, 201.810, and 201.811 to read as follows:

Sec. 201.807. PROJECT INFORMATION REPORTING SYSTEM. (a) The department shall establish a project information reporting system that makes available in a central location on the department's Internet website easily accessible and searchable information regarding all of the department's transportation plans, including the developmental program required by Section 201.991. The department shall post information on its Internet website as required by this subsection as the information becomes available to the department and in a manner that is not cost prohibitive. The project information reporting system shall contain information about:

(1) each department project, including:

(A) the status of the project;

(B) each source of funding for the project;

(C) benchmarks for evaluating the progress of the project;

(D) timelines for completing the project;

(E) a list of the department employees responsible for the project,

including information to contact each person on that list; and

(F) the results of the annual review required under Subsection (d);

(2) each construction work zone for a project that has a construction phase timeline that exceeds one month or the cost of which exceeds \$5 million, including information about:

(A) the number of lanes that will remain open during the project's construction phase;

(B) the location and duration of each lane closure; and

(C) the expected traffic delay resulting from each lane closure;

(3) road maintenance projects, including:

(A) the criteria for designating a project as a road maintenance project;

and

(B) the condition of each road before the road maintenance project; and

(4) the department's funds, including each source for the department's funds and each expenditure made by the department reported by each:

(A) department district;

(B) program funding category as required by Section 201.991(b)(2);

and

(C) type of revenue, including revenue from a comprehensive development agreement or a toll project.

(b) In developing the project information reporting system, the department shall collaborate with:

(1) the legislature;

(2) local transportation entities; and

(3) members of the public.

(c) The department shall make the information provided under this section available on the department's Internet website in more than one downloadable electronic format.

(d) As a component of the project information reporting system required by this section, the department shall conduct an annual review of the benchmarks and timelines of each project included in the department's transportation plans, including the developmental program, to determine the completion rates of the projects and whether the projects were completed on time.

(e) The department shall update the information contained in the project information reporting system on a regular basis, as specified by commission rule.

Sec. 201.808. TRANSPORTATION EXPENDITURE PRIORITIES. (a) The department shall develop a process to identify and distinguish between the transportation projects that are required to maintain the state infrastructure and the transportation projects that would improve the state infrastructure in a manner consistent with the statewide transportation plan required by Section 201.601.

(b) The department shall establish a transportation expenditure reporting system that makes available in a central location on the department's Internet website easily accessible and searchable information regarding the priorities of transportation expenditures for the identified transportation projects.

(c) The department shall include in the transportation expenditure reporting system:

(1) a list of the most significant transportation problems in each department district as described by the statewide transportation plan developed under Section 201.601, including the component required by Section 201.601(c);

(2) reports prepared by the department or an institution of higher education that evaluate the effectiveness of the department's expenditures on transportation projects to achieve the transportation goal;

(3) information about the condition of the pavement for each highway under the jurisdiction of the department, including:

(A) the international roughness index issued by the United States Department of Transportation Federal Highway Administration; and

(B) the percentage of pavement that the department determines to be in good or better condition;

(4) the condition of bridges, including information about:

(A) bridges that are structurally deficient or functionally obsolete; and

(B) bridge condition scores;

(5) information about traffic congestion and traffic delays, including:

(A) the locations of the worst traffic delays;

(B) the variable travel time for major streets and highways in this state;

and

(C) the effect of traffic congestion on motor vehicle travel and motor carriers; and

(6) information about the number of traffic accidents, injuries, and fatalities, including a list of the locations in each department district for the highest number of traffic accidents, injuries, or fatalities, as that information becomes available to the department.

(d) The department shall provide the information made available under Subsection (c) in a format that allows a person to conduct electronic searches for information regarding a specific county, highway under the jurisdiction of the department, or type of road.

(e) The department shall establish criteria to prioritize the transportation needs for the state that is consistent with the statewide transportation plan.

(f) Each department district shall enter information into the transportation expenditure reporting system, including information about:

(1) each district transportation project; and

(2) the category to which the project has been assigned and the priority of the project according to Section 201.995.

(g) The transportation expenditure reporting system shall allow a person to compare information produced by that system to information produced by the project information reporting system.

Sec. 201.809. STATEWIDE TRANSPORTATION REPORT. (a) The department annually shall evaluate and publish a report about the status of each transportation goal for this state. The report must include:

(1) information about the progress of each long-term transportation goal that is identified by the statewide transportation plan;

(2) the status of each project identified as a major priority;

(3) a summary of the number of statewide project implementation benchmarks that have been completed; and

(4) information about the accuracy of previous department financial forecasts.

(b) The department shall disaggregate the information in the report by department district.

(c) The department shall provide a copy of the district report to each member of the legislature for each department district located in the member's legislative district, and at the request of a member, a department employee shall meet with the member to explain the report.

(d) The department shall provide a copy of each district report to the political subdivisions located in the department district that is the subject of the report, including:

(1) a municipality;

(2) a county; and

(3) a local transportation entity.

Sec. 201.810. DEPARTMENT INFORMATION CONSOLIDATION. (a) To the extent practicable and to avoid duplication of reporting requirements, the department may combine the reports required under this subchapter with reports required under other provisions of this code.

(b) The department shall develop a central location on the department's Internet website that provides easily accessible and searchable information to the public contained in the reports required under this subchapter and other provisions of this code.

Sec. 201.811. PUBLIC INVOLVEMENT POLICY. (a) The department shall develop and implement a policy for public involvement that guides and encourages public involvement with the department. The policy must:

(1) provide for the use of public involvement techniques that target different groups and individuals;

(2) encourage continuous contact between the department and persons outside the department throughout the transportation decision-making process;

(3) require the department to make efforts toward:

(A) clearly tying public involvement to decisions made by the department; and

(B) providing clear information to the public about specific outcomes of public input;

(4) apply to all public input with the department, including input:

(A) on statewide transportation policy-making;

(B) in connection with the environmental process relating to specific projects; and

(C) into the commission's rulemaking procedures; and

(5) require a person who makes or submits a public comment, at the time the comment is made or disclosed, to disclose whether the person:

(A) does business with the department;

(B) may benefit from a project; or

(C) is an employee of the department.

(b) The department shall document the number of positive, negative, or neutral public comments received regarding all environmental impact statements as expressed by the public through the department's public involvement process. The department shall:

(1) present this information to the commission in an open meeting; and

(2) report this information on the department's Internet website in a timely manner.

SECTION 22. Chapter 201, Transportation Code, is amended by adding Subchapter P to read as follows:

SUBCHAPTER P. DEVELOPMENTAL PROGRAM

Sec. 201.991. DEVELOPMENTAL PROGRAM. (a) The developmental program required as part of the statewide transportation plan under Section 201.601 must:

(1) annually identify target funding levels; and

(2) list all projects that the department intends to develop or begin construction of during the program period.

(b) The commission shall adopt rules that:

(1) specify the criteria for selecting projects to be included in the program;

(2) define program funding categories, including categories for safety, maintenance, and mobility; and

(3) define each phase of a major transportation project, including the planning, programming, implementation, and construction phases.

(c) The department shall publish the developmental program as part of the entire statewide transportation plan, including summary documents highlighting project benchmarks, priorities, and forecasts, in appropriate media and on the department's Internet website in a format that is easily understandable by the public.

(d) In developing the rules required by this section, the commission shall collaborate with local transportation entities.

Sec. 201.992. ANNUAL UPDATE TO DEVELOPMENTAL PROGRAM. (a) The department shall annually update the developmental program.

(b) The annual update must include:

(1) the annual funding forecast required by Section 201.993;

(2) the list of major transportation projects required by Section 201.994(b);

and

(3) the category to which the project has been assigned and the priority of the project in the category established by Section 201.995.

(c) The department shall collaborate with local transportation entities to develop the annual update to the developmental program.

Sec. 201.993. ANNUAL FUNDING AND CASH FLOW FORECASTS. (a) The department annually shall:

(1) develop and publish a forecast of all funds the department expects to receive, including funds from this state and the federal government; and

(2) use that forecast to guide planning for the developmental program.

(b) The department shall collaborate with local transportation entities to develop scenarios for the forecast required by Subsection (a) based on mutually acceptable funding assumptions.

(c) Not later than September 1 of each year, the department shall prepare and publish a cash flow forecast for a period of 20 years.

Sec. 201.994. MAJOR TRANSPORTATION PROJECTS. (a) The commission by rule shall:

(1) establish criteria for designating a project as a major transportation project;

(2) develop benchmarks for evaluating the progress of a major transportation project and timelines for implementation and construction of a major transportation project; and

(3) determine which critical benchmarks must be met before a major transportation project may enter the implementation phase of the developmental program.

(b) The department annually shall update the list of projects that are designated as major transportation projects.

(c) In adopting rules required by this section, the commission shall collaborate with local transportation entities.

Sec. 201.995. PRIORITY PROJECTS IN PROGRAM CATEGORIES. (a) The commission by rule shall:

(1) establish categories in the developmental program;

(2) assign each project identified in the program to a category; and

(3) designate the priority ranking of each project within each category.

(b) The department shall collaborate with local transportation entities when assigning each project included in the developmental program to a category established under Subsection (a).

(c) The highest priority projects within an applicable category of the developmental program must be projects designated as major transportation projects.

Sec. 201.996. FUNDING ALLOCATION FORMULAS AND CATEGORIES.

(a) For each funding category established under Section 201.991(b)(2), the commission by rule shall specify the formulas for allocating funds to districts and metropolitan planning organizations for:

(1) preventive maintenance and rehabilitation of the state highway system in all districts;

(2) mobility and added capacity projects in metropolitan and urban areas;

(3) mobility and added capacity projects on major state highways that provide statewide connectivity between urban areas and highway system corridors;

(4) congestion mitigation and air quality improvement projects in nonattainment areas;

(5) metropolitan mobility and added capacity projects within the boundaries of designated metropolitan planning areas of metropolitan planning organizations located in a transportation management area;

(6) transportation enhancements project funding; and

(7) projects eligible for federal or state funding, as determined by the applicable district engineer.

(b) Subject to applicable state and federal law, the commission shall determine the allocation of funds in all of the other categories established under Section 201.991(b)(2), including a category for projects of specific importance to the state, including projects that:

(1) promote economic opportunity;

(2) increase efficiency on military deployment routes or that retain military assets; and

(3) maintain the ability of appropriate entities to respond to emergencies.

(c) The commission shall update the formulas established under this section at least every four years.

(d) In determining the amount of funding in each program funding category, the commission shall consider the input of:

(1) metropolitan planning organizations;

(2) transportation officials;

(3) local government officials; and

(4) other stakeholders.

(e) In selecting projects in a program funding category, the department shall cooperate with metropolitan planning organizations and other stakeholders.

(f) All funds received by the department for highways, including toll roads and toll road systems, that may be allocated in this state's or the department's discretion shall be allocated by a formula to each district and metropolitan planning organization that is based on performance measures and includes at least the following criteria:

(1) centerline miles;

(2) level of congestion;

- (3) percentage of population below federal poverty level;
- (4) population;
- (5) safety; and
- (6) vehicle miles traveled.

Sec. 201.997. WORK PROGRAM. (a) Each department district shall develop a consistently formatted work program based on the developmental program covering a period of four years that contains all projects that the district proposes to implement during that period.

(b) The work program must contain:

(1) information regarding the progress of projects designated as major transportation projects, according to project implementation benchmarks and timelines established under Section 201.994; and

(2) a summary of the progress on other district projects.

(c) The department shall use the work program to:

(1) monitor the performance of the district; and

(2) evaluate the performance of district employees.

(d) The department shall publish the work program in appropriate media and on the department's Internet website.

SECTION 23. Section 202.021, Transportation Code, is amended by amending Subsection (e) and adding Subsection (e-1) to read as follows:

(e) The commission may waive payment for real property transferred to a governmental entity under this section if:

(1) the estimated cost of future maintenance on the property equals or exceeds the fair value of the property; or

(2) the property is a highway right-of-way and the governmental entity assumes or has assumed jurisdiction, control, and maintenance of the right-of-way for public road purposes.

(e-1) A grant transferring real property under Subsection (e)(2) must contain a reservation providing that if property described by that subsection ceases to be used for public road purposes, that real property shall immediately and automatically revert to this state.

SECTION 24. Section 223.002, Transportation Code, is amended to read as follows:

Sec. 223.002. NOTICE OF BIDS ~~[BY PUBLICATION]~~. ~~[(a)]~~ The department shall give ~~[publish]~~ notice to interested persons regarding ~~[of]~~ the time and place at which bids on a contract will be opened and the contract awarded. The commission by rule shall determine the most effective method for providing the notice required by this section.

~~[(b) The notice must be published in a newspaper published in the county in which the improvement is to be made once a week for at least two weeks before the time set for awarding the contract and in two other newspapers that the department may designate.~~

~~[(c) Instead of the notice required by Subsection (b), if the department estimates that the contract involves an amount less than \$300,000, notice may be published in two successive issues of a newspaper published in the county in which the improvement is to be made.~~

~~[(d) If a newspaper is not published in the county in which the improvement is to be made, notice shall be published in a newspaper published in the county:~~

~~[(1) nearest the county seat of the county in which the improvement is to be made; and~~

~~[(2) in which a newspaper is published.]~~

SECTION 25. Subchapter A, Chapter 223, Transportation Code, is amended by adding Section 223.017 to read as follows:

Sec. 223.017. DESIGN-BUILD CONTRACTS FOR NONTOLLED HIGHWAY PROJECTS. (a) In this section, "design-build contract" means an agreement with a private entity for the design and construction, rehabilitation, expansion, or improvement of a highway project but does not include the financing or operation of the highway.

(b) The department may enter into a design-build contract for a nontolled highway project.

(c) Notwithstanding Section 223.0041, if the department enters into a design-build contract under this section, the department shall use a competitive procurement process that provides the best value for the department.

(d) The commission shall adopt rules specifying the conditions under which a design-build contract may be considered. In developing rules the commission must address:

(1) the size and complexity of an eligible project;

(2) the time constraints for delivery of an eligible project;

(3) the level and training of the staff required to manage an eligible project;

and

(4) other factors the commission considers important.

SECTION 26. Section 223.208(c), Transportation Code, is amended to read as follows:

(c) The department may enter into a comprehensive development agreement under this subchapter or under Section 227.023(c) with a private participant only if the project is identified in the department's developmental ~~[unified transportation]~~ program or is located on a transportation corridor identified in the statewide transportation plan.

SECTION 27. Section 227.034(a), Transportation Code, is amended to read as follows:

(a) A contract for the acquisition, construction, maintenance, or operation of a facility on the Trans-Texas Corridor may not contain a provision that limits or prohibits construction or operation of a highway or other transportation project that is:

(1) included in the developmental ~~[unified transportation]~~ program of the department in effect at the time the contract is executed;

(2) a project of a local government; or

(3) constructed or operated for the safety of pedestrian or vehicular traffic.

SECTION 28. Section 227.062(e), Transportation Code, is amended to read as follows:

(e) The commission may not disburse money from the state highway fund or the Texas mobility fund to construct a portion of the Trans-Texas Corridor unless it would replace or supplement a project identified in the department's developmental ~~[unified transportation]~~ program or a transportation corridor identified in the statewide transportation plan.

SECTION 29. Section 228.0055(c), Transportation Code, is amended to read as follows:

(c) The commission or the department may not:

(1) revise the formula as provided in the department's developmental ~~[unified transportation]~~ program, or its successor document, in a manner that results in a decrease of a department district's allocation because of a payment under Subsection (a); or

(2) take any other action that would reduce funding allocated to a department district because of payments received under a comprehensive development agreement.

SECTION 30. Section 228.006(b), Transportation Code, is amended to read as follows:

(b) The commission may not revise the formula as provided in the department's developmental ~~[unified transportation]~~ program, or its successor document, in a manner that results in a decrease of a district's allocation because of a payment under Subsection (a).

SECTION 31. Section 228.012(e), Transportation Code, is amended to read as follows:

(e) The commission or the department may not:

(1) revise the formula as provided in the department's developmental ~~[unified transportation]~~ program or a successor document in a manner that results in a decrease of a department district's allocation because of the deposit of a payment into a project subaccount or a commitment to undertake an additional transportation project under Section 228.0111; or

(2) take any other action that would reduce funding allocated to a department district because of the deposit of a payment received from the department or local toll project entity into a project subaccount or a commitment to undertake an additional transportation project under Section 228.0111.

SECTION 32. Section 228.117, Transportation Code, is amended to read as follows:

Sec. 228.117. FUNDING FOR DEPARTMENT DISTRICT. The commission may not revise the formula as provided in the department's developmental ~~[unified transportation]~~ program, or its successor document, in a manner that results in a decrease of a district's allocation because revenue bonds are issued for a toll project located within the department district.

SECTION 33. Section 362.902, Transportation Code, is amended to read as follows:

Sec. 362.902. INCLUSION OF TOLL PROJECTS IN DEVELOPMENTAL ~~[UNIFIED TRANSPORTATION]~~ PROGRAM. The department shall adopt and include in the developmental ~~[unified transportation]~~ program of the department a list

of transportation projects in each department district that the department considers to be eligible and feasible for tolling. A transportation project that is included in the list is not required to be operated as a toll project.

SECTION 34. Section 366.407(c), Transportation Code, is amended to read as follows:

(c) An authority may enter into a comprehensive development agreement under this subchapter with a private participant only if the project is identified in the department's developmental ~~unified transportation~~ program or is located on a transportation corridor identified in the statewide transportation plan.

SECTION 35. Section 370.311(c), Transportation Code, is amended to read as follows:

(c) An authority may only enter into a comprehensive development agreement under Section 370.305 with a private equity investor if the project is identified in the department's developmental ~~unified transportation~~ program or is located on a transportation corridor identified in the statewide transportation plan.

SECTION 36. Section 391.004, Transportation Code, is amended to read as follows:

Sec. 391.004. ~~DISPOSITION OF FEES [TEXAS HIGHWAY BEAUTIFICATION FUND ACCOUNT]. [The Texas highway beautification fund account is an account in the general revenue fund.]~~ Money the commission receives under this chapter shall be deposited to the credit of the state [Texas] highway ~~beautification~~ fund ~~account~~. The commission shall use money in the state [Texas] highway ~~beautification~~ fund ~~account~~ to administer this chapter and Chapter 394.

SECTION 37. (a) Subchapter A, Chapter 391, Transportation Code, is amended by adding Section 391.006 to read as follows:

Sec. 391.006. COMPLAINTS; RECORDS. (a) The commission by rule shall establish procedures for accepting and resolving written complaints related to outdoor advertising under this chapter. The rules must include:

(1) a process to make information available describing the department's procedures for complaint investigation and resolution, including making information about the procedures available on the department's Internet website;

(2) a system to prioritize complaints so that the most serious complaints receive attention before less serious complaints; and

(3) a procedure for compiling and reporting detailed annual statistics about complaints.

(b) The department shall develop and provide a simple form for filing complaints with the department.

(c) The department shall provide to each person who files a written complaint with the department, and to each person who is the subject of a complaint, information about the department's policies and procedures relating to complaint investigation and resolution.

(d) The department shall keep, in accordance with the department's approved records retention schedule, an information file about each written complaint filed with the department that the department has authority to resolve. The department shall keep the following information for each complaint for the purpose of enforcing this chapter:

- (1) the date the complaint is filed;
- (2) the name of the person filing the complaint;
- (3) the subject matter of the complaint;
- (4) each person contacted in relation to the complaint;
- (5) a summary of the results of the review or investigation of the complaint;

and

(6) if the department does not take action on the complaint, an explanation of the reasons that action was not taken.

(e) If a written complaint is filed with the department that the department has authority to resolve, the department, at least quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an ongoing department investigation.

(b) The Texas Transportation Commission shall adopt rules under Section 391.006, Transportation Code, as added by this section, not later than September 1, 2012.

SECTION 38. Subchapter B, Chapter 391, Transportation Code, is amended by adding Section 391.0355 to read as follows:

Sec. 391.0355. ADMINISTRATIVE PENALTY. (a) In lieu of a suit to collect a civil penalty, the commission, after notice and an opportunity for a hearing before the commission, may impose an administrative penalty against a person who violates this chapter or a rule adopted by the commission under this chapter. Each day a violation continues is a separate violation.

(b) The amount of the administrative penalty may not exceed the maximum amount of a civil penalty under Section 391.035.

(c) A proceeding under this section is a contested case under Chapter 2001, Government Code.

(d) Judicial review of an appeal of an administrative penalty imposed under this section is under the substantial evidence rule.

(e) An administrative penalty collected under this section shall be deposited to the credit of the state highway fund.

SECTION 39. Section 391.063, Transportation Code, is amended to read as follows:

Sec. 391.063. LICENSE FEE. The commission may set the amount of a license fee according to a scale graduated by the number of units of outdoor advertising and the number of off-premise signs under Chapter 394 owned by a license applicant.

SECTION 40. Section 391.065(b), Transportation Code, is amended to read as follows:

(b) For the efficient management and administration of this chapter and to reduce the number of employees required to enforce this chapter, the commission shall adopt rules for issuing standardized forms that are for submission by license holders and applicants and that provide for an accurate showing of the number, location, or other information required by the commission for each license holder's or applicant's outdoor advertising or off-premise signs under Chapter 394.

SECTION 41. Section 391.066, Transportation Code, is amended by adding Subsection (d) to read as follows:

(d) The commission may deny the renewal of a license holder's license if the license holder has not complied with the permit requirements of this chapter or Chapter 394.

SECTION 42. Subchapter C, Chapter 391, Transportation Code, is amended by adding Section 391.0661 to read as follows:

Sec. 391.0661. APPLICABILITY OF LICENSE. In addition to authorizing a person to erect or maintain outdoor advertising, a license issued under this chapter authorizes a person to erect or maintain an off-premise sign under Chapter 394.

SECTION 43. Section 394.005, Transportation Code, is amended to read as follows:

Sec. 394.005. DISPOSITION OF FEES. Money the commission receives [~~A registration fee collected~~] under this chapter [~~Section 394.048 by the commission~~] shall be deposited to the credit of the state highway fund.

SECTION 44. (a) Subchapter A, Chapter 394, Transportation Code, is amended by adding Section 394.006 to read as follows:

Sec. 394.006. COMPLAINTS; RECORDS. (a) The commission by rule shall establish procedures for accepting and resolving written complaints related to signs under this chapter. The rules must include:

(1) a process to make information available describing the department's procedures for complaint investigation and resolution, including making information about the procedures available on the department's Internet website;

(2) a system to prioritize complaints so that the most serious complaints receive attention before less serious complaints; and

(3) a procedure for compiling and reporting detailed annual statistics about complaints.

(b) The department shall develop and provide a simple form for filing complaints with the department.

(c) The department shall provide to each person who files a written complaint with the department, and to each person who is the subject of a complaint, information about the department's policies and procedures relating to complaint investigation and resolution.

(d) The department shall keep, in accordance with the department's approved records retention schedule, an information file about each written complaint filed with the department that the department has authority to resolve. The department shall keep the following information for each complaint for the purpose of enforcing this chapter:

(1) the date the complaint is filed;

(2) the name of the person filing the complaint;

(3) the subject matter of the complaint;

(4) each person contacted in relation to the complaint;

(5) a summary of the results of the review or investigation of the complaint;

and

(6) if the department does not take action on the complaint, an explanation of the reasons that action was not taken.

(e) If a written complaint is filed with the department that the department has authority to resolve, the department, at least quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an ongoing department investigation.

(b) The Texas Transportation Commission shall adopt rules under Section 394.006, Transportation Code, as added by this section, not later than September 1, 2012.

SECTION 45. The heading to Subchapter B, Chapter 394, Transportation Code, is amended to read as follows:

SUBCHAPTER B. LICENSE AND PERMIT FOR OFF-PREMISE SIGN

SECTION 46. (a) Subchapter B, Chapter 394, Transportation Code, is amended by adding Sections 394.0201, 394.0202, 394.0203, 394.0204, 394.0205, 394.0206, 394.0207, 394.027, 394.028, and 394.029 to read as follows:

Sec. 394.0201. ERECTING OFF-PREMISE SIGN WITHOUT LICENSE; OFFENSE. (a) A person commits an offense if the person wilfully erects or maintains an off-premise sign on a rural road without a license under this subchapter.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$500 or more than \$1,000. Each day of the proscribed conduct is a separate offense.

(c) A person is not required to obtain a license to erect or maintain an on-premise sign.

Sec. 394.0202. ISSUANCE AND PERIOD OF LICENSE. (a) The commission shall issue a license to a person who:

(1) files with the commission a completed application form within the time specified by the commission;

(2) pays the appropriate license fee; and

(3) files with the commission a surety bond.

(b) A license may be issued for one year or longer.

(c) At least 30 days before the date on which a person's license expires, the commission shall notify the person of the impending expiration. The notice must be in writing and sent to the person's last known address according to the records of the commission.

Sec. 394.0203. LICENSE FEE. The commission may set the amount of a license fee according to a scale graduated by the number of off-premise signs and units of outdoor advertising under Chapter 391 owned by a license applicant.

Sec. 394.0204. SURETY BOND. (a) The surety bond required of an applicant for a license under Section 394.0202 must be:

(1) in the amount of \$2,500 for each county in the state in which the person erects or maintains an off-premise sign; and

(2) payable to the commission for reimbursement for removal costs of an off-premise sign that the license holder unlawfully erects or maintains.

(b) A person may not be required to provide more than \$10,000 in surety bonds.

Sec. 394.0205. RULES; FORMS. (a) The commission may adopt rules to implement Sections 394.0201(a), 394.0202, 394.0203, 394.0204, and 394.0206.

(b) For the efficient management and administration of this chapter and to reduce the number of employees required to enforce this chapter, the commission shall adopt rules for issuing standardized forms that are for submission by license holders and applicants and that provide for an accurate showing of the number, location, or other information required by the commission for each license holder's or applicant's off-premise signs or outdoor advertising under Chapter 391.

(c) The commission may not adopt a rule under this chapter that restricts competitive bidding or advertising by the holder of a license issued under this chapter other than a rule to prohibit false, misleading, or deceptive practices. The limitation provided by this section applies only to rules relating to the occupation of outdoor advertiser and does not affect the commission's power to regulate the orderly and effective display of an off-premise sign under this chapter. A rule to prohibit false, misleading, or deceptive practices may not:

(1) restrict the use of:

(A) any legal medium for an advertisement;

(B) the license holder's advertisement under a trade name; or

(C) the license holder's personal appearance or voice in an advertisement, if the license holder is an individual; or

(2) relate to the size or duration of an advertisement by the license holder.

Sec. 394.0206. REVOCATION OR SUSPENSION OF LICENSE; APPEAL.

(a) The commission may revoke or suspend a license issued under this subchapter or place on probation a license holder whose license is suspended if the license holder violates this chapter or a rule adopted under this chapter. If the suspension of the license is probated, the department may require the license holder to report regularly to the commission on any matter that is the basis of the probation.

(b) The judicial appeal of the revocation or suspension of a license must be initiated not later than the 15th day after the date of the commission's action.

(c) The commission may adopt rules for the reissuance of a revoked or suspended license and may set fees for the reissuance.

(d) The commission may deny the renewal of a license holder's existing license if the license holder has not complied with the permit requirements of this chapter or Chapter 391.

Sec. 394.0207. APPLICABILITY OF LICENSE. In addition to authorizing a person to erect or maintain an off-premise sign, a license issued under this chapter authorizes a person to erect or maintain outdoor advertising under Chapter 391.

Sec. 394.027. DENIAL OF PERMIT; APPEAL. The commission may create a process by which an applicant may appeal a denial of a permit under this subchapter.

Sec. 394.028. FEE AMOUNTS. The license and permit fees required by this subchapter may not exceed an amount reasonably necessary to cover the administrative costs incurred to enforce this chapter.

Sec. 394.029. EXCEPTIONS FOR CERTAIN NONPROFIT ORGANIZATIONS. (a) The combined license and permit fees under this subchapter may not exceed \$10 for an off-premise sign erected and maintained by a nonprofit organization in a municipality or a municipality's extraterritorial jurisdiction if the sign relates to or promotes only the municipality or a political subdivision whose jurisdiction is wholly or partly concurrent with the municipality.

(b) The nonprofit organization is not required to file a bond as provided by Section 394.0202(a)(3).

(b) The change in law made by Section 394.0201, Transportation Code, as added by this section, applies only to an off-premise sign erected or for which the permit expires on or after the effective date of this Act. An off-premise sign for which a permit is issued before the effective date of this Act is covered by the law in effect when the permit was issued, and the former law is continued in effect for that purpose.

SECTION 47. Section 394.050, Transportation Code, is amended to read as follows:

Sec. 394.050. ~~[BOARD OF]~~ VARIANCE. The commission or a person designated by the commission [commission shall provide for a board of variance that], in an appropriate case and subject to an appropriate condition or safeguard, may make a special exception to this chapter regarding a permit for an off-premise outdoor sign on a rural road.

SECTION 48. Sections 394.082(a) and (d), Transportation Code, are amended to read as follows:

(a) In lieu of a suit to collect a civil penalty, the commission, after notice and an opportunity for a hearing before the commission, may impose an administrative penalty against a person who ~~[intentionally]~~ violates this chapter or a rule adopted by the commission under this chapter. Each day a violation continues is a separate violation.

(d) Judicial review of an appeal of an administrative penalty imposed under this section is under the substantial evidence rule [by trial de novo].

SECTION 49. Subchapter D, Chapter 472, Transportation Code, is amended by adding Section 472.035 to read as follows:

Sec. 472.035. COORDINATION WITH DEPARTMENT TO DEVELOP LONG-TERM PLANNING ASSUMPTIONS. Each metropolitan planning organization shall work with the department to develop mutually acceptable assumptions for the purposes of long-range federal and state funding forecasts and use those assumptions to guide long-term planning in the organization's long-range transportation plan.

SECTION 50. Chapter 544, Transportation Code, is amended by adding Section 544.013 to read as follows:

Sec. 544.013. CHANGEABLE MESSAGE SIGN SYSTEM. (a) In this section, "changeable message sign" means a sign that conforms to the manual and specifications adopted under Section 544.001. The term includes a dynamic message sign.

(b) The Texas Department of Transportation in cooperation with local governments shall actively manage a system of changeable message signs located on highways under the jurisdiction of the department to mitigate traffic congestion by providing current information to the traveling public, including information about traffic incidents, weather conditions, road construction, and alternative routes when applicable.

SECTION 51. Section 621.001, Transportation Code, is amended by amending Subdivisions (3) and (4) and adding Subdivision (13) to read as follows:

(3) "Department" means the Texas Department of Motor Vehicles [~~Transportation~~].

(4) "Director" means the executive director of the Texas Department of Motor Vehicles [~~Transportation~~].

(13) "Board" means the board of the Texas Department of Motor Vehicles.

SECTION 52. Section 621.003(a), Transportation Code, is amended to read as follows:

(a) The board [~~commission~~] by rule may authorize the director to enter into with the proper authority of another state an agreement that authorizes:

(1) the authority of the other state to issue on behalf of the department to the owner or operator of a vehicle, or combination of vehicles, that exceeds the weight or size limits allowed by this state a permit that authorizes the operation or transportation on a highway in this state of the vehicle or combination of vehicles; and

(2) the department to issue on behalf of the authority of the other state to the owner or operator of a vehicle, or combination of vehicles, that exceeds the weight or size limits allowed by that state a permit that authorizes the operation or transportation on a highway of that state of the vehicle or combination of vehicles.

SECTION 53. Section 621.004, Transportation Code, is amended to read as follows:

Sec. 621.004. ADMISSIBILITY OF CERTIFICATE OF VERTICAL CLEARANCE. In each civil or criminal proceeding in which a violation of this chapter may be an issue, a certificate of the vertical clearance of a structure, including a bridge or underpass, signed by the executive director of the Texas Department of Transportation is admissible in evidence for all purposes.

SECTION 54. Section 621.006, Transportation Code, is amended to read as follows:

Sec. 621.006. RESTRICTED OPERATION ON CERTAIN HOLIDAYS. The commission [~~department~~] by rule may impose restrictions on the weight and size of vehicles to be operated on state highways on the following holidays only:

- (1) New Year's Day;
- (2) Memorial Day;
- (3) Independence Day;
- (4) Labor Day;
- (5) Thanksgiving Day; and
- (6) Christmas Day.

SECTION 55. Subchapter A, Chapter 621, Transportation Code, is amended by adding Section 621.008 to read as follows:

Sec. 621.008. RULEMAKING AUTHORITY. The board may adopt rules necessary to implement and enforce this chapter.

SECTION 56. Section 621.102(d), Transportation Code, is amended to read as follows:

(d) A maximum weight or load set under this section becomes effective on a highway or road when appropriate signs giving notice of the maximum weight or load are erected on the highway or road by the Texas Department of Transportation under order of the commission.

SECTION 57. Sections 621.202(a) and (b), Transportation Code, are amended to read as follows:

(a) To comply with safety and operational requirements of federal law, the commission by order may set the maximum width of a vehicle, including the load on the vehicle, at eight feet for a designated highway or segment of a highway if the results of an engineering and traffic study, conducted by the Texas Department of Transportation, that includes an analysis of structural capacity of bridges and pavements, traffic volume, unique climatic conditions, and width of traffic lanes support the change.

(b) An order under this section becomes effective on the designated highway or segment when appropriate signs giving notice of the limitations are erected by the Texas Department of Transportation.

SECTION 58. Sections 621.301(a) and (d), Transportation Code, are amended to read as follows:

(a) The commissioners court of a county may establish load limits for any county road or bridge only with the concurrence of the Texas Department of Transportation [~~department~~]. A load limit shall be deemed concurred with by the Texas Department of Transportation [~~department~~] 30 days after the county submits to the Texas Department of Transportation [~~department~~] the load limit accompanied by supporting documentation and calculations reviewed and sealed by an engineer licensed in this state, though the Texas Department of Transportation [~~department~~] may review the load limit and withdraw concurrence at any time after the 30-day period.

(d) A maximum weight set under this section becomes effective on a road when appropriate signs giving notice of the maximum weight are erected by the Texas Department of Transportation on the road under order of the commissioners court.

SECTION 59. Section 621.352(a), Transportation Code, is amended to read as follows:

(a) The board [~~commission~~] by rule may establish fees for the administration of Section 621.003 in an amount that, when added to the other fees collected by the department, does not exceed the amount sufficient to recover the actual cost to the department of administering that section. An administrative fee collected under this section shall be sent to the comptroller for deposit to the credit of the state highway fund and may be appropriated only to the department for the administration of Section 621.003.

SECTION 60. Section 621.356, Transportation Code, is amended to read as follows:

Sec. 621.356. FORM OF PAYMENT. The board [~~commission~~] may adopt rules prescribing the method for payment of a fee for a permit issued by the department that authorizes the operation of a vehicle and its load or a combination of vehicles and load exceeding size or weight limitations. The rules may:

(1) authorize the use of electronic funds transfer or a credit card issued by:

(A) a financial institution chartered by a state or the federal government; or

(B) a nationally recognized credit organization approved by the board [~~commission~~]; and

(2) require the payment of a discount or service charge for a credit card payment in addition to the fee.

SECTION 61. Section 621.504, Transportation Code, is amended to read as follows:

Sec. 621.504. BRIDGE OR UNDERPASS CLEARANCE. A person may not operate or attempt to operate a vehicle over or on a bridge or through an underpass or similar structure unless the height of the vehicle, including load, is less than the vertical clearance of the structure as shown by the records of the Texas Department of Transportation [~~department~~].

SECTION 62. Section 622.001, Transportation Code, is amended to read as follows:

Sec. 622.001. DEFINITIONS [~~DEFINITION~~]. In this chapter:

(1) "Commission" means the Texas Transportation Commission.

(2) "Department" [~~,"department"~~] means the Texas Department of Motor Vehicles [~~Transportation~~].

SECTION 63. Subchapter A, Chapter 622, Transportation Code, is amended by adding Section 622.002 to read as follows:

Sec. 622.002. RULEMAKING AUTHORITY. The board of the department may adopt rules necessary to implement and enforce this chapter.

SECTION 64. Sections 622.013(a) and (b), Transportation Code, are amended to read as follows:

(a) The owner of a ready-mixed concrete truck with a tandem axle weight heavier than 34,000 pounds shall before operating the vehicle on a public highway of this state file with the department a surety bond subject to the approval of the Texas Department of Transportation [~~department~~] in the principal amount set by the Texas Department of Transportation [~~department~~] not to exceed \$15,000 for each truck.

(b) The bond must be conditioned that the owner of the truck will pay to the Texas Department of Transportation [~~state~~], within the limit of the bond, any damage to a highway caused by the operation of the truck.

SECTION 65. Sections 622.134(a) and (b), Transportation Code, are amended to read as follows:

(a) Except as provided by Subsection (c), the owner of a vehicle covered by this subchapter with a tandem axle weight heavier than 34,000 pounds shall before operating the vehicle on a public highway of this state file with the department a surety bond subject to the approval of the Texas Department of Transportation [~~department~~] in the principal amount set by the Texas Department of Transportation [~~department~~] not to exceed \$15,000 for each vehicle.

(b) The bond must be conditioned that the owner of the vehicle will pay, within the limits of the bond, to the Texas Department of Transportation [~~state~~] any damage to a highway, to a county any damage to a county road, and to a municipality any damage to a municipal street caused by the operation of the vehicle.

SECTION 66. Section 623.001, Transportation Code, is amended by amending Subdivision (1) and adding Subdivisions (4) and (5) to read as follows:

(1) "Department" means the Texas Department of Motor Vehicles [~~Transportation~~].

(4) "Board" means the board of the Texas Department of Motor Vehicles.

(5) "Commission" means the Texas Transportation Commission.

SECTION 67. Subchapter A, Chapter 623, Transportation Code, is amended by adding Sections 623.002 and 623.003 to read as follows:

Sec. 623.002. RULEMAKING AUTHORITY. The board may adopt rules necessary to implement and enforce this chapter.

Sec. 623.003. ROUTE DETERMINATION. (a) To the extent the department is required to determine a route under this chapter, the department shall base the department's routing decision on information provided by the Texas Department of Transportation.

(b) The Texas Department of Transportation shall provide the department with all routing information necessary to complete a permit issued under Section 623.071, 623.121, 623.142, or 623.192.

SECTION 68. Section 623.0112, Transportation Code, is amended to read as follows:

Sec. 623.0112. ADDITIONAL ADMINISTRATIVE FEE. When a person applies for a permit under Section 623.011, the person must pay in addition to other fees an administrative fee adopted by board [~~department~~] rule in an amount not to exceed the direct and indirect cost to the department of:

- (1) issuing a sticker under Section 623.011(d);
- (2) distributing fees under Section 621.353; and
- (3) notifying counties under Section 623.013.

SECTION 69. Section 623.012(b), Transportation Code, is amended to read as follows:

(b) The bond or letter of credit must:

(1) be in the amount of \$15,000 payable to the Texas Department of Transportation [~~department~~] and the counties of this state;

(2) be conditioned that the applicant will pay the Texas Department of Transportation [~~department~~] for any damage to a state highway, and a county for any damage to a road or bridge of the county, caused by the operation of the vehicle for which the permit is issued at a heavier weight than the maximum weights authorized by Subchapter B of Chapter 621 or Section 621.301; and

(3) provide that the issuer is to notify the Texas Department of Transportation [~~department~~] and the applicant in writing promptly after a payment is made by the issuer on the bond or letter of credit.

SECTION 70. Sections 623.016(a) and (b), Transportation Code, are amended to read as follows:

(a) The Texas Department of Transportation [~~department~~] or a county may recover on the bond or letter of credit required for a permit issued under Section 623.011 only by a suit against the permit holder and the issuer of the bond or letter of credit.

(b) Venue for a suit by the Texas Department of Transportation [~~department~~] is in a district court in:

- (1) the county in which the defendant resides;
- (2) the county in which the defendant has its principal place of business in this state if the defendant is a corporation or partnership; or

(3) Travis County if the defendant is a corporation or partnership that does not have a principal place of business in this state.

SECTION 71. Section 623.051(a), Transportation Code, is amended to read as follows:

(a) A person may operate a vehicle that cannot comply with one or more of the restrictions of Subchapter C of Chapter 621 or Section 621.101 to cross the width of any road or highway under the jurisdiction of the Texas Department of Transportation [~~department~~], other than a controlled access highway as defined by Section 203.001, from private property to other private property if the person contracts with the commission to indemnify the Texas Department of Transportation [~~department~~] for the cost of maintenance and repair of the part of the highway crossed by the vehicle.

SECTION 72. Section 623.052(b), Transportation Code, is amended to read as follows:

(b) Before a person may operate a vehicle under this section, the person must:

(1) contract with the Texas Department of Transportation [~~department~~] to indemnify the Texas Department of Transportation [~~department~~] for the cost of the maintenance and repair for damage caused by a vehicle crossing that part of the highway; and

(2) execute an adequate surety bond to compensate for the cost of maintenance and repair, approved by the comptroller and the attorney general, with a corporate surety authorized to do business in this state, conditioned on the person fulfilling each obligation of the agreement.

SECTION 73. Section 623.075(a), Transportation Code, is amended to read as follows:

(a) Before the department may issue a permit under this subchapter, the applicant shall file with the department a bond in an amount set by the Texas Department of Transportation [~~department~~], payable to the Texas Department of Transportation [~~department~~], and conditioned that the applicant will pay to the Texas Department of Transportation [~~department~~] any damage that might be sustained to the highway because of the operation of the equipment for which a permit is issued.

SECTION 74. Sections 623.076(b) and (c), Transportation Code, are amended to read as follows:

(b) The board [~~Texas Transportation Commission~~] may adopt rules for the payment of a fee under Subsection (a). The rules may:

(1) authorize the use of electronic funds transfer;

(2) authorize the use of a credit card issued by:

(A) a financial institution chartered by a state or the United States; or

(B) a nationally recognized credit organization approved by the board [~~Texas Transportation Commission~~]; and

(3) require the payment of a discount or service charge for a credit card payment in addition to the fee prescribed by Subsection (a).

(c) An application for a permit under Section 623.071(c)(3) or (d) must be accompanied by the permit fee established by the board, in consultation with the commission, for the permit, not to exceed \$7,000. Of each fee collected under this subsection, the department shall send:

(1) the first \$1,000 to the comptroller for deposit to the credit of the general revenue fund; and

(2) any amount in excess of \$1,000 to the comptroller for deposit to the credit of the state highway fund.

SECTION 75. Section 623.078, Transportation Code, is amended to read as follows:

Sec. 623.078. VEHICLE SUPERVISION FEE. (a) Each applicant for a permit under this subchapter for a vehicle that is heavier than 200,000 pounds must also pay a vehicle supervision fee in an amount determined by the Texas Department of Transportation [~~department~~] and designed to recover the direct cost of providing safe transportation of the vehicle over the state highway system, including the cost of:

- (1) bridge structural analysis;
- (2) the monitoring of the trip process; and
- (3) moving traffic control devices.

(b) The board [~~department~~] shall send each fee collected under Subsection (a) to the comptroller for deposit to the credit of the state highway fund.

SECTION 76. Section 623.080(a), Transportation Code, is amended to read as follows:

(a) Except as provided by Subsection (b), a permit under this subchapter must include:

- (1) the name of the applicant;
- (2) the date of issuance;
- (3) the signature of the director of the department [~~or of a division engineer~~];

(4) a statement of the kind of equipment to be transported over the highway, the weight and dimensions of the equipment, and the kind and weight of each commodity to be transported; and

(5) a statement of any condition on which the permit is issued.

SECTION 77. Section 623.093(f), Transportation Code, is amended to read as follows:

(f) If an application for a permit to move a manufactured house is accompanied by a copy of a writ of possession issued by a court of competent jurisdiction, the applicant is not required to submit the written statement from the chief appraiser [~~set forth in Subsection (d)~~].

SECTION 78. Section 623.096(b), Transportation Code, is amended to read as follows:

(b) The board, in consultation with the Texas Department of Transportation, [~~department~~] shall adopt rules concerning fees for each annual permit issued under Section 623.095(c) at a cost not to exceed \$3,000.

SECTION 79. Section 623.099(e), Transportation Code, is amended to read as follows:

(e) The Texas Department of Transportation [~~department~~] shall publish and annually revise a map or list of the bridges or overpasses that because of height or width require an escort flag vehicle to stop oncoming traffic while a manufactured house crosses the bridge or overpass.

SECTION 80. Sections 623.100(b) and (c), Transportation Code, are amended to read as follows:

(b) The Texas Department of Transportation [~~department~~] may limit the hours for travel on certain routes because of heavy traffic conditions.

(c) The Texas Department of Transportation [~~department~~] shall publish the limitation on movements prescribed by this section and the limitations adopted under Subsection (b) and shall make the publications available to the public. Each limitation adopted by the Texas Department of Transportation [~~department~~] must be made available to the public before it takes effect.

SECTION 81. Section 623.126(a), Transportation Code, is amended to read as follows:

(a) A permit issued under this subchapter must:

- (1) contain the name of the applicant;
- (2) be dated and signed by the director of the department [~~— a division engineer,~~] or a designated agent;
- (3) state the make and model of the portable building unit or units to be transported over the highways;
- (4) state the make and model of the towing vehicle;
- (5) state the combined length and width of the portable building unit or units and towing vehicle; and
- (6) state each highway over which the portable building unit or units are to be moved.

SECTION 82. Section 623.142(a), Transportation Code, is amended to read as follows:

(a) The department may, on application, issue a permit for the movement over a road or highway under the jurisdiction of the Texas Department of Transportation [~~department~~] of a vehicle that:

- (1) is a piece of fixed-load mobile machinery or equipment used to service, clean out, or drill an oil well; and
- (2) cannot comply with the restrictions set out in Subchapter C of Chapter 621 and Section 621.101.

SECTION 83. Sections 623.145 and 623.146, Transportation Code, are amended to read as follows:

Sec. 623.145. RULES; FORMS AND PROCEDURES; FEES. (a) The board, in consultation with the commission, [~~Texas Transportation Commission~~] by rule shall provide for the issuance of permits under this subchapter. The rules must include each matter the board and commission determine [~~determines~~] necessary to implement this subchapter and:

- (1) requirements for forms and procedures used in applying for a permit;
- (2) conditions with regard to route and time of movement;
- (3) requirements for flags, flaggers, and warning devices;
- (4) the fee for a permit; and
- (5) standards to determine whether a permit is to be issued for one trip only or for a period established by the commission.

(b) In adopting a rule or establishing a fee, the board and commission shall consider and be guided by:

(1) the state's investment in its highway system;

(2) the safety and convenience of the general traveling public;

(3) the registration or license fee paid on the vehicle for which the permit is requested;

(4) the fees paid by vehicles operating within legal limits;

(5) the suitability of roadways and subgrades on the various classes of highways of the system;

(6) the variation in soil grade prevalent in the different regions of the state;

(7) the seasonal effects on highway load capacity;

(8) the highway shoulder design and other highway geometrics;

(9) the load capacity of the highway bridges;

(10) administrative costs;

(11) added wear on highways; and

(12) compensation for inconvenience and necessary delays to highway users.

Sec. 623.146. VIOLATION OF RULE. A permit under this subchapter is void on the failure of an owner or the owner's representative to comply with a rule of the board [~~commission~~] or with a condition placed on the permit, and immediately on the violation, further movement over the highway of an oversize or overweight vehicle violates the law regulating the size or weight of a vehicle on a public highway.

SECTION 84. Sections 623.163(a) and (b), Transportation Code, are amended to read as follows:

(a) The owner of a vehicle used exclusively to transport solid waste with a tandem axle load heavier than 34,000 pounds shall before operating the vehicle on a public highway of this state file with the department a surety bond subject to the approval of the Texas Department of Transportation [~~department~~] in the principal amount set by the Texas Department of Transportation [~~department~~] not to exceed \$15,000 for each vehicle.

(b) The bond must be conditioned that the owner of the vehicle will pay to the Texas Department of Transportation [~~state~~] and to any municipality in which the vehicle is operated on a municipal street, within the limit of the bond, any damages to a highway or municipal street caused by the operation of the vehicle.

SECTION 85. Section 623.192(a), Transportation Code, is amended to read as follows:

(a) The department may, on application, issue a permit to a person to move over a road or highway under the jurisdiction of the Texas Department of Transportation [~~department~~] an unladen lift equipment motor vehicle that cannot comply with the restrictions set out in Subchapter C of Chapter 621 and Section 621.101.

SECTION 86. Sections 623.195 and 623.196, Transportation Code, are amended to read as follows:

Sec. 623.195. RULES; FORMS AND PROCEDURES; FEES. (a) The board, in consultation with the commission, [~~Texas Transportation Commission~~] by rule shall provide for the issuance of a permit under this subchapter. The rules must include each matter the board and the commission determine [~~determines~~] necessary to implement this subchapter and:

(1) requirements for forms and procedures used in applying for a permit;

- (2) conditions with regard to route and time of movement;
- (3) requirements for flags, flaggers, and warning devices;
- (4) the fee for a permit; and
- (5) standards to determine whether a permit is to be issued for one trip only or for a period established by the commission.

(b) In adopting a rule or establishing a fee, the board and the commission shall consider and be guided by:

- (1) the state's investment in its highway system;
- (2) the safety and convenience of the general traveling public;
- (3) the registration or license fee paid on the vehicle for which the permit is requested;
- (4) the fees paid by vehicles operating within legal limits;
- (5) the suitability of roadways and subgrades on the various classes of highways of the system;
- (6) the variation in soil grade prevalent in the different regions of the state;
- (7) the seasonal effects on highway load capacity;
- (8) the highway shoulder design and other highway geometrics;
- (9) the load capacity of highway bridges;
- (10) administrative costs;
- (11) added wear on highways; and
- (12) compensation for inconvenience and necessary delays to highway users.

Sec. 623.196. VIOLATION OF RULE. A permit under this subchapter is void on the failure of an owner or the owner's representative to comply with a rule of the board [~~commission~~] or with a condition placed on the permit, and immediately on the violation, further movement over a highway of an oversize or overweight vehicle violates the law regulating the size or weight of a vehicle on a public highway.

SECTION 87. Section 623.212, Transportation Code, is amended to read as follows:

Sec. 623.212. PERMITS BY PORT AUTHORITY. The commission [~~department~~] may authorize a port authority to issue permits for the movement of oversize or overweight vehicles carrying cargo on state highways located in counties contiguous to the Gulf of Mexico or a bay or inlet opening into the gulf and bordering the United Mexican States.

SECTION 88. Section 623.215(b), Transportation Code, is amended to read as follows:

(b) A port authority shall report to the Texas Department of Transportation [~~department~~] all permits issued under this subchapter.

SECTION 89. Section 623.233, Transportation Code, is amended to read as follows:

Sec. 623.233. MAINTENANCE CONTRACTS. The district shall make payments to the Texas Department of Transportation [~~department~~] to provide funds for the maintenance of state highways subject to this subchapter.

SECTION 90. Section 623.235(b), Transportation Code, is amended to read as follows:

(b) The district shall report to the Texas Department of Transportation [~~department~~] all permits issued under this subchapter.

SECTION 91. Section 623.253, Transportation Code, is amended to read as follows:

Sec. 623.253. MAINTENANCE CONTRACTS. The county shall make payments to the Texas Department of Transportation [~~department~~] to provide funds for the maintenance of state highways subject to this subchapter.

SECTION 92. Section 623.304, Transportation Code, is amended to read as follows:

Sec. 623.304. MAINTENANCE CONTRACTS. The port authority shall make payments to the Texas Department of Transportation [~~department~~] to provide funds for the maintenance of state highways subject to this subchapter.

SECTION 93. Section 547.304(c), Transportation Code, is amended to read as follows:

(c) Except for Sections 547.323 and 547.324, a provision of this chapter that requires a vehicle to be equipped with lamps, reflectors, and lighting equipment does not apply to a mobile home if the mobile home:

(1) is moved under a permit issued by the Texas Department of Motor Vehicles [~~Transportation~~] under Subchapter D, Chapter 623; and

(2) is not moved at a time or under a condition specified by Section 547.302(a).

SECTION 94. Section 1001.002(b), Transportation Code, is amended to read as follows:

(b) In addition to the other duties required of the Texas Department of Motor Vehicles, the department shall administer and enforce:

(1) Subtitle A;

(2) Chapters 621, 622, 623, 642, 643, 645, 646, and 648; and

(3) Chapters 2301 and 2302, Occupations Code.

SECTION 95. Sections 1201.161(a), (b), and (c), Occupations Code, are amended to read as follows:

(a) Notwithstanding any other statute or rule or ordinance, a licensed retailer or licensed installer is not required to obtain a permit, certificate, or license or pay a fee to transport manufactured housing to the place of installation except as required by the Texas Department of Motor Vehicles [~~Transportation~~] under Subchapter E, Chapter 623, Transportation Code.

(b) The department shall cooperate with the Texas Department of Motor Vehicles [~~Transportation~~] by providing current lists of licensed manufacturers, retailers, and installers.

(c) The Texas Department of Motor Vehicles [~~Transportation~~] shall send the department monthly:

(1) a copy of each permit issued in the preceding month for the movement of manufactured housing on the highways; or

(2) a list of the permits issued in the preceding month and the information on the permits.

SECTION 96. (a) Except as otherwise provided by this Act, not later than January 1, 2012, the following are transferred from the Texas Department of Transportation to the Texas Department of Motor Vehicles:

(1) the powers, duties, functions, programs, activities, and rights of action of the Texas Department of Transportation relating to oversize and overweight vehicles under Chapters 621, 622, and 623, Transportation Code;

(2) any obligations, funds, negotiations, grants, memoranda of understanding, leases, rights, and contracts of the Texas Department of Transportation that are directly related to implementing a power, duty, function, program, activity, or right of action transferred under this subsection; and

(3) all personnel, furniture, computers, equipment, other property, records, and related materials in the custody of the Texas Department of Transportation that are related to a power, duty, function, program, activity, or right of action transferred under this subsection and all funds appropriated by the legislature for that power, duty, function, program, activity, or right of action.

(b) The Texas Department of Motor Vehicles shall continue any case or proceeding relating to oversize and overweight vehicles under Chapters 621, 622, and 623, Transportation Code, that was brought before the effective date of this Act in accordance with the law in effect on the date the case or proceeding was brought, and the former law is continued in effect for that purpose.

(c) A certificate, license, document, permit, registration, or other authorization issued by the Texas Department of Transportation relating to oversize and overweight vehicles under Chapters 621, 622, and 623, Transportation Code, that is in effect on the effective date of this Act remains valid for the period for which it was issued unless suspended or revoked by the Texas Department of Motor Vehicles.

(d) The unobligated and unexpended balance of any appropriations made to the Texas Department of Transportation in connection with or relating to oversize and overweight vehicles under Chapter 621, 622, or 623, Transportation Code, for the state fiscal biennium ending August 31, 2011, is transferred and reappropriated to the Texas Department of Motor Vehicles for the purpose of implementing the powers, duties, obligations, and rights of action transferred to that department.

(e) The Texas Department of Transportation shall continue, as necessary, to perform the duties and functions that are being transferred to the Texas Department of Motor Vehicles under this Act until the transfer of agency duties and functions is complete.

(f) A rule or form adopted by the Texas Department of Transportation that relates to a power, duty, function, program, activity, or right of action transferred under Subsection (a) of this section is a rule or form of the Texas Department of Motor Vehicles and remains in effect until altered by the Texas Department of Motor Vehicles.

(g) A reference in law to the Texas Department of Transportation that relates to a power, duty, function, program, activity, or right of action transferred under Subsection (a) of this section means the Texas Department of Motor Vehicles.

SECTION 97. (a) The Texas Department of Motor Vehicles may enter into a memorandum of understanding with a state agency, including the Texas Department of Transportation, if the board of the Texas Department of Motor Vehicles determines the memorandum is necessary or appropriate to implement the changes made by this Act to Chapters 621, 622, and 623, Transportation Code.

(b) The memorandum of understanding described by Subsection (a) of this section may:

(1) coordinate the Texas Department of Motor Vehicles' and the Texas Department of Transportation's information systems to allow for the sharing of information so each department may effectively and efficiently perform the functions and duties assigned to the department;

(2) provide for implementing the memorandum using existing personnel and resources from the Texas Department of Motor Vehicles and the Texas Department of Transportation;

(3) allow for the sharing of otherwise confidential information subject to the same confidentiality requirements and legal restrictions on access to the information that are imposed by law on the agency that originally obtained or collected the information;

(4) allow for the sharing of information without the consent of the person who is the subject of the information; and

(5) include an agreement for:

(A) the provision of office space, utilities, and other facility services;

(B) the need for full-time equivalent positions of the Texas Department of Transportation to provide support services in addition to the positions transferred to the Texas Department of Motor Vehicles under Section 96(a)(3) of this Act;

(C) support services; and

(D) the transfer of information technology as necessary or appropriate to effectuate the transfer of the powers and duties of the Texas Department of Transportation to the Texas Department of Motor Vehicles.

(c) The Texas Department of Motor Vehicles and the Texas Department of Transportation may not impose, collect, or charge a fee in connection with the sharing of information under a memorandum of understanding entered into or revised under this section.

SECTION 98. Section 201.0545, Transportation Code, is repealed.

SECTION 99. This Act takes effect September 1, 2011.

Floor Amendment No. 1

Amend **CSSB 1420** (house committee report) by striking page 4, lines 14-17, and substituting the following:

Sec. 201.1075. CHIEF FINANCIAL OFFICER. (a) The department shall employ a chief financial officer. The chief financial officer must:

(1) be a certified public accountant who is licensed and in good standing in this state;

(2) have earned at least a master's degree from an accredited public or private institution of higher education; or

(3) have at least 10 years of professional experience in fiscal management practices and procedures, with at least seven years of managerial experience.

Floor Amendment No. 2

Amend Floor Amendment No. 1, by Harper-Brown to **CSSB 1420** (page 1, prefiled amendment packet) on page 1, by striking lines 11-13, and substituting the following:

(3) have at least 10 years of professional experience in fiscal management practices and procedures, including fund accounting for government agencies, with at least seven years of managerial experience.

Floor Amendment No. 4

Amend **CSSB 1420** (house committee printing) as follows:

(1) Strike page 4, lines 18-24 and substitute:

(b) The chief financial officer shall oversee the department's financial activities, including:

(1) financial forecasting of the department's revenues and expenditures;

(2) establishing and monitoring of the department's budget;

(3) financial reporting on federal and state programs; and

(4) managing the department's debt and loan portfolio.

(2) On page 4, line 25 strike "chief financial officer" and substitute "department".

(3) On page 5, between lines 9 and 10, insert:

(f) Each month, the chief financial officer shall certify that the highway construction and maintenance contracts to be awarded by the department during that month will not create a liability to the state in excess of the most recent cash flow forecast issued by the chief financial officer.

Floor Amendment No. 5

Amend **CSSB 1420** (house committee report) as follows:

(1) On page 12, line 16, strike "improvement program" and substitute "plan".

(2) On page 12, line 17, strike "specific, long-term".

(3) On page 14, line 12, after "necessary," add "An update or revision of the statewide transportation improvement program or the 10-year developmental program is an amendment or administrative modification and does not require an update to the statewide transportation plan."

(4) On page 14, line 15, strike "PLANS AND POLICY EFFORTS" and substitute "PLANS, PROGRAMS, AND POLICY EFFORTS".

(5) On page 14, line 16, strike "plans and policy efforts," and substitute "plans, programs, and policy efforts,".

(6) On page 14, line 18, strike "plan or policy effort" and substitute "plan, program, or policy effort".

Floor Amendment No. 6

Amend **CSSB 1420** (house committee report) on page 9, line 19, by inserting "or division or office director" between "engineer" and the comma.

Floor Amendment No. 10

Amend **CSSB 1420** (house committee printing) as follows:

(1) On page 36, line 3, strike "Section 228.012(e), Transportation Code, is" and substitute "Sections 228.012(b) and (e), Transportation Code, are".

(2) On page 36, between lines 4 and 5, insert:

(b) The department shall hold money in a subaccount in trust for the benefit of the region in which a project or system is located and may assign the responsibility for allocating money in a subaccount to a metropolitan planning organization in which the region is located for projects approved by the department. Except as provided by Subsection (c), at the time the project is approved by the department money shall be allocated and distributed to projects authorized by Section 228.0055 or Section 228.006, as applicable.

Floor Amendment No. 11

Amend **CSSB 1420** (house committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. (a) Section 201.607, Transportation Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) Not later than January 1, 1997, and every fifth year after that date, the department and each state agency that is responsible for the protection of the natural environment or for the preservation of historical or archeological resources shall examine and revise their memorandum of understanding that:

(1) describes the responsibilities of each agency entering into the memorandum relating to the review of the potential environmental, historical, or archeological effect of a highway project;

(2) specifies the responsibilities of each agency entering into the memorandum relating to the review of a highway project;

(3) specifies the types of information the department must provide to the reviewing agency and the period during which the department must provide the information;

(4) specifies the period during which the reviewing agency must review the highway project and provide comments to the department, as negotiated by the department and the agency but which may not exceed 45 days after the date the agency receives a request for comments from the department; ~~and~~

(5) specifies that comments submitted to the department later than the period specified under Subdivision (4) will be considered by the department to the extent possible; and

(6) includes any other agreement necessary for the effective coordination of the review of the environmental, historical, or archeological effect of a highway project.

(c) The department by rule shall establish procedures concerning coordination with agencies in carrying out responsibilities under agreements under this section.

(b) Section 201.607(a), Transportation Code, as amended by this section, applies only to a request for comments from the Texas Department of Transportation received by a state agency on or after the effective date of this Act. As necessary, the Texas

Department of Transportation and each affected state agency shall promptly revise the memorandum of understanding required by Section 201.607, Transportation Code, to implement the change made by this section to Section 201.607(a), Transportation Code.

SECTION _____. (a) Chapter 201, Transportation Code, is amended by adding Subchapter I-1 to read as follows:

SUBCHAPTER I-1. ENVIRONMENTAL REVIEW PROCESS

Sec. 201.751. DEFINITIONS. In this subchapter:

(1) "Day" means a calendar day.

(2) "Federal Highway Administration" means the United States Department of Transportation Federal Highway Administration.

(3) "Highway project" means a highway or related improvement that is:

(A) part of the state highway system; or

(B) not part of the state highway system but funded wholly or partly by federal money.

(4) "Local government sponsor" means a political subdivision of the state that:

(A) elects to participate in the planning, development, design, funding, or financing of a highway project; and

(B) is a municipality or a county, a group of adjoining counties, a county acting under Chapter 284, a regional tollway authority operating under Chapter 366, a regional mobility authority operating under Chapter 370, a local government corporation, or a transportation corporation created under Chapter 431.

Sec. 201.752. STANDARDS. (a) The commission by rule shall establish standards for processing an environmental review document for a highway project. The standards must increase efficiency, minimize delays, and encourage collaboration and cooperation by the department with a local government sponsor, with a goal of prompt approval of legally sufficient documents.

(b) The standards apply regardless of whether the environmental review document is prepared by the department or a local government sponsor. The standards apply to work performed by the sponsor and to the department's review process and environmental decision.

(c) The standards must address, for each type of environmental review document:

(1) the issues and subject matter to be included in the project scope prepared under Section 201.754;

(2) the required content of a draft environmental review document;

(3) the process to be followed in considering each type of environmental review document; and

(4) review deadlines, including the deadlines in Section 201.759.

(d) The standards must include a process for resolving disputes arising under this subchapter, provided that the dispute resolution process must be concluded not later than the 60th day after the date either party requests dispute resolution.

(e) The standards may include a process and criteria for the prioritization of environmental review documents if the department makes a finding that it lacks adequate resources to timely process all documents it receives for projects described

in Section 201.753(a). The process established under this subsection must provide for notification to the local government sponsor if an environmental review document is to be delayed due to prioritization, and must provide that the delayed review will be completed not later than one year before the date that the local government sponsor plans to publish notice to let the construction contract for the project, as indicated in a document identifying the project under Section 201.753(a)(1) or a commission order under Section 201.753(a)(2).

Sec. 201.753. ENVIRONMENTAL REVIEW LIMITED TO CERTAIN PROJECTS. (a) A local government sponsor or the department may prepare an environmental review document for a highway project only if the highway project is:

(1) identified in the financially constrained portion of the approved state transportation improvement program or the financially constrained portion of the approved unified transportation program; or

(2) identified by the commission as being eligible for participation under this subchapter.

(b) Notwithstanding Subsection (a), a local government sponsor may prepare an environmental review document for a highway project that is not identified by the commission or in a program described by Subsection (a) if the sponsor submits with its notice under Section 201.755 a fee in an amount established by commission rule, but not to exceed the actual cost of reviewing the environmental review document.

(c) A fee received by the department under Subsection (b) must be deposited in the state highway fund and used to pay costs incurred under this subchapter.

Sec. 201.754. SCOPE OF PROJECT. If an environmental review document is prepared by a local government sponsor, the local government sponsor must prepare a detailed scope of the project in collaboration with the department before the department may process the environmental review document.

Sec. 201.755. NOTICE TO DEPARTMENT. (a) A local government sponsor may submit notice to the department proposing that the local government sponsor prepare the environmental review document for a highway project.

(b) The notice must include:

(1) the project scope prepared under Section 201.754; and

(2) a request for classification of the project.

Sec. 201.756. LOCAL GOVERNMENT SPONSOR RESPONSIBILITIES. A local government sponsor that submits notice under Section 201.755 is responsible for preparing all materials for:

(1) project scope determination;

(2) environmental reports;

(3) the environmental review document;

(4) environmental permits and conditions;

(5) coordination with resource agencies; and

(6) public participation.

Sec. 201.757. DETERMINATION OF ADMINISTRATIVELY COMPLETE ENVIRONMENTAL REVIEW DOCUMENT. (a) A local government sponsor's submission of an environmental review document must include a statement from the local government sponsor that the document is administratively complete, ready for technical review, and compliant with all applicable requirements.

(b) Not later than the 20th day after the date the department receives a local government sponsor's environmental review document, the department shall either:

(1) issue a letter confirming that the document is administratively complete and ready for technical review; or

(2) decline to issue a letter confirming that the document is administratively complete and ready for technical review, in accordance with Section 201.758.

Sec. 201.758. DEPARTMENT DECLINES TO CONFIRM THAT DOCUMENT IS ADMINISTRATIVELY COMPLETE. (a) The department may decline to issue a letter confirming that an environmental review document is administratively complete and ready for technical review only if the department sends a written response to the local government sponsor specifying in reasonable detail the basis for its conclusions, including a listing of any required information determined by the department to be missing from the document.

(b) If the department provides notice under Subsection (a), the department shall undertake all reasonable efforts to cooperate with the local government sponsor in a timely manner to ensure that the environmental review document is administratively complete.

(c) The local government sponsor may resubmit any environmental review document determined by the department under Section 201.757 not to be administratively complete, and the department shall issue a determination letter on the resubmitted document not later than the 20th day after the date the document is resubmitted.

Sec. 201.759. REVIEW DEADLINES. (a) The following deadlines must be included in the standards adopted under Section 201.752:

(1) the department shall issue a classification letter not later than the 30th day after the date the department receives notice from a local government sponsor under Section 201.755;

(2) for a project classified as a programmatic categorical exclusion, the environmental decision must be rendered not later than the 60th day after the date the supporting documentation is received by the department;

(3) for a project classified as a categorical exclusion, the environmental decision must be rendered not later than the 90th day after the date the supporting documentation is received by the department;

(4) for a project that requires the preparation of an environmental assessment:

(A) the department must provide all department comments on a draft environmental assessment not later than the 90th day after the date the draft is received by the department; and

(B) the department must render the environmental decision on the project not later than the 60th day after the later of:

(i) the date the revised environmental assessment is submitted to the department; or

(ii) the date the public involvement process concludes;

(5) the department must render the environmental decision on any reevaluation not later than the 120th day after the date the supporting documentation is received by the department; and

(6) for a project that requires the preparation of an environmental impact statement, the department shall render the environmental decision not later than the 120th day after the date the draft final environmental impact statement is submitted.

(b) Review deadlines under this section specify the date by which the department will render the environmental decision on a project or the time frames by which the department will make a recommendation to the Federal Highway Administration, as applicable.

(c) A deadline that falls on a weekend or official state holiday is considered to occur on the next business day.

Sec. 201.760. SUSPENSION OF TIME PERIODS. The computation of review deadlines under Section 201.759 does not begin until an environmental review document is determined to be administratively complete, and is suspended during any period in which:

(1) the document that is the subject of the review is being revised by or on behalf of the local government sponsor in response to department comments;

(2) the highway project is the subject of additional work, including a change in design of the project, and during the identification and resolution of new significant issues; or

(3) the local government sponsor is preparing a response to any issue raised by legal counsel for the department concerning compliance with applicable law.

Sec. 201.761. AGREEMENT BETWEEN LOCAL GOVERNMENT SPONSOR AND DEPARTMENT. Notwithstanding any provision of this subchapter or any other law, a local government sponsor and the department may enter into an agreement that defines the relative roles and responsibilities of the parties in the preparation and review of environmental review documents for a specific project. For a project for which an environmental decision requires the approval of the Federal Highway Administration and to the extent otherwise permitted by law, the Federal Highway Administration may also be a party to an agreement between a local government sponsor and the department under this section.

Sec. 201.762. REPORTS TO COMMISSION AND LEGISLATURE. (a) Not later than June 30 and December 31 of each year, the department shall submit a report to the commission at a regularly scheduled commission meeting identifying projects being processed under the procedures of this subchapter and the status of each project, including:

(1) how the project was classified for environmental review;

(2) the current status of the environmental review;

(3) the date on which the department is required to make an environmental decision under applicable deadlines;

(4) an explanation of any delays; and

(5) any deadline under Section 201.759 missed by the department.

(b) Not later than December 1 of each year, the department shall submit a report to the members of the standing legislative committees with primary jurisdiction over matters related to transportation regarding the implementation of this subchapter, including a status report for the preceding 12-month period that contains the information described in Subsection (a).

(c) The department shall post copies of the reports required under this section on its Internet website and shall provide a copy of the report required by Subsection (b) to each member of the legislature who has at least one project covered by the report in the member's district.

(d) The department shall make available on its Internet website and update regularly the status of projects being processed under this subchapter.

(b) The Texas Transportation Commission shall adopt rules to implement Subchapter I-1, Chapter 201, Transportation Code, as added by this section, not later than March 1, 2012.

(c) Subchapter I-1, Chapter 201, Transportation Code, as added by this section, applies only to a notice of a local government sponsor proposing the sponsor's preparation of an environmental review document that is received by the Texas Department of Transportation on or after the effective date of this Act. Submissions to the Texas Department of Transportation received before the effective date of this Act are governed by the law in effect on the date the submission was received, and that law is continued in effect for that purpose.

SECTION ____ . Subchapter A, Chapter 222, Transportation Code, is amended by adding Sections 222.005 and 222.006 to read as follows:

Sec. 222.005. AUTHORIZATION TO PROVIDE ASSISTANCE TO EXPEDITE ENVIRONMENTAL REVIEW. (a) The department, a county, a regional tollway authority operating under Chapter 366, or a regional mobility authority operating under Chapter 370 may enter into an agreement to provide funds to a state or federal agency to expedite the agency's performance of its duties related to the environmental review process for the applicable entity's transportation projects, including those listed in the applicable metropolitan planning organization's long-range transportation plan under 23 U.S.C. Section 134.

(b) Except as provided by Subsection (c), an agreement entered into under this section:

(1) may specify transportation projects the applicable entity considers to be priorities for review; and

(2) must require the agency receiving money to complete the environmental review in less time than is customary for the completion of environmental review by that agency.

(c) The department may enter into a separate agreement for a transportation project that the department determines has regional importance.

(d) An agreement entered into under this section does not diminish or modify the rights of the public regarding review and comment on transportation projects.

(e) An entity entering into an agreement under this section shall make the agreement available on the entity's Internet website.

Sec. 222.006. ENVIRONMENTAL REVIEW CERTIFICATION PROCESS. The department by rule shall establish a process to certify department district environmental specialists to work on all documents related to state and federal environmental review processes. The certification process must:

(1) be available to department employees; and

(2) require continuing education for recertification.

SECTION _____. (a) Section 12.0011, Parks and Wildlife Code, is amended by adding Subsection (b-1) to read as follows:

(b-1) Recommendations and information submitted by the department under Subsection (b) in response to a request for comments from the Texas Department of Transportation must be submitted not later than the 45th day after the date the department receives the request.

(b) Section 12.0011(b-1), Parks and Wildlife Code, as added by this section, applies only to a request for comments from the Texas Department of Transportation received on or after the effective date of this Act.

Floor Amendment No. 12

Amend Amendment No. 11 by Harper-Brown (page 25 of the prefiled amendments packet) to **CSSB 1420** by striking page 4, lines 2-14, and substituting the following:

(e) For highway projects described in Section 201.753(a), the standards may provide a process and criteria for the prioritization of environmental review documents in the event the department makes a finding that it lacks adequate resources to timely process all documents it receives. Standards established pursuant to this subsection must provide for notification to a local government sponsor if processing of an environmental review document is to be delayed due to prioritization, and must ensure that the environmental review document for each highway project will be completed no later than one year prior to the date planned for publishing notice to let the construction contract for the project, as indicated in a document identifying the project under Section 201.753(a)(1) or a commission order under Section 201.753(a)(2).

Floor Amendment No. 13

Amend **CSSB 1420** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter A, Chapter 228, Transportation Code, is amended by adding Section 228.013 to read as follows:

Sec. 228.013. DETERMINATION OF FINANCIAL TERMS FOR CERTAIN TOLL PROJECTS. (a) This section applies only to a proposed department toll project in which a private entity has a financial interest in the project's performance and for which:

- (1) funds dedicated to or controlled by a region will be used;
- (2) right-of-way is provided by a municipality or county; or
- (3) revenues dedicated to or controlled by a municipality or county will be

used.

(b) The distribution of a project's financial risk, the method of financing for a project, and the tolling structure and methodology must be determined by a committee consisting of the following members:

- (1) a representative of the department;
- (2) a representative of any local toll project entity, as defined by Section

371.001, for the area in which the project is located;

- (3) a representative of the applicable metropolitan planning organization;
and
(4) a representative of each municipality or county that has provided revenue or right-of-way as described by Subsection (a).

Floor Amendment No. 14

Amend **CSSB 1420** (house committee printing) by striking SECTION 25 of the bill (page 33, line 18, through page 34, line 12) and substituting the following:

SECTION 25. Chapter 223, Transportation Code, is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. DESIGN-BUILD CONTRACTS

Sec. 223.241. DEFINITIONS. In this subchapter:

(1) "Design-build contractor" means a partnership, corporation, or other legal entity or team that includes an engineering firm and a construction contractor qualified to engage in the construction of highway projects in this state.

(2) "Design-build method" means a project delivery method by which an entity contracts with a single entity to provide both design and construction services for the construction, rehabilitation, alteration, or repair of a facility.

Sec. 223.242. SCOPE OF AND LIMITATIONS ON CONTRACTS. (a) Notwithstanding the requirements of Subchapter A and Chapter 2254, Government Code, the department may use the design-build method for the design, construction, expansion, extension, related capital maintenance, rehabilitation, alteration, or repair of a highway project.

(b) A design-build contract under this subchapter may not grant to a private entity:

(1) a leasehold interest in the highway project; or

(2) the right to operate or retain revenue from the operation of a toll project.

(c) In using the design-build method and in entering into a contract for the services of a design-build contractor, the department and the design-build contractor shall follow the procedures and requirements of this subchapter.

(d) The department may enter into not more than three design-build contracts for highway projects, each of which has a construction cost estimate of \$50 million or more to the department, in any fiscal year.

(e) Money disbursed by the department to pay engineering costs for the design of a project incurred by the design-build contractor under a design-build contract may not be included in the amounts under Section 223.041:

(1) required to be spent in a state fiscal biennium for engineering-related services; or

(2) appropriated in Strategy A.1.1, Plan/Design/Manage or Strategy A.1.2, Contracted Planning and Design of the General Appropriations Act.

Sec. 223.243. USE OF ENGINEER OR ENGINEERING FIRM. (a) To act as the department's representative, independent of a design-build contractor, for the procurement process and for the duration of the work on a highway project, the department shall select or designate:

(1) an engineer;

(2) a qualified firm, selected in accordance with Section 2254.004, Government Code, who is independent of the design-build contractor; or

(3) a general engineering consultant that was previously selected by the department and is selected or designated in accordance with Section 2254.004, Government Code.

(b) The selected or designated engineer or firm has full responsibility for complying with Chapter 1001, Occupations Code.

Sec. 223.244. OTHER PROFESSIONAL SERVICES. (a) The department shall provide or contract for, independently of the design-build contractor, the following services as necessary for the acceptance of the highway project by the department:

(1) inspection services;

(2) construction materials engineering and testing; and

(3) verification testing services.

(b) The department shall ensure that the engineering services contracted for under this section are selected based on demonstrated competence and qualifications.

(c) This section does not preclude a design-build contractor from providing construction quality assurance and quality control under a design-build contract.

Sec. 223.245. REQUEST FOR QUALIFICATIONS. (a) For any highway project to be delivered through the design-build method, the department must prepare and issue a request for qualifications. A request for qualifications must include:

(1) information regarding the proposed project's location, scope, and limits;

(2) information regarding funding that may be available for the project;

(3) criteria that will be used to evaluate the qualifications statements, which must include a proposer's qualifications, experience, technical competence, and ability to develop the project;

(4) the relative weight to be given to the criteria; and

(5) the deadline by which qualifications statements must be received by the department.

(b) The department shall publish notice advertising the issuance of a request for qualifications in the Texas Register and on the department's Internet website.

(c) The department shall evaluate each qualifications statement received in response to a request for qualifications based on the criteria identified in the request. The department may interview responding proposers. Based on the department's evaluation of qualifications statements and interviews, if any, the department shall qualify or short-list proposers to submit proposals.

(d) The department shall qualify or short-list at least two private entities to submit proposals under Section 223.246, but may not qualify or short-list more private entities than the number of private entities designated on the request for qualifications. If the department receives only one responsive qualifications statement, the department shall terminate the procurement.

(e) The department may withdraw a request for qualifications or request for proposals at any time.

Sec. 223.246. REQUEST FOR PROPOSALS. (a) The department shall issue a request for proposals to proposers short-listed under Section 223.245. A request for proposals must include:

(1) information on the overall project goals;

(2) publicly available cost estimates for the design-build portion of the project;

- (3) materials specifications;
 - (4) special material requirements;
 - (5) a schematic design approximately 30 percent complete;
 - (6) known utilities, provided that the department is not required to undertake an effort to locate utilities;
 - (7) quality assurance and quality control requirements;
 - (8) the location of relevant structures;
 - (9) notice of any rules or goals adopted by the department relating to awarding contracts to disadvantaged business enterprises or small business enterprises;
 - (10) available geotechnical or other information related to the project;
 - (11) the status of any environmental review of the project;
 - (12) detailed instructions for preparing the technical proposal required under Subsection (d), including a description of the form and level of completeness of drawings expected;
 - (13) the relative weighting of the technical and cost proposals required under Subsection (d) and the formula by which the proposals will be evaluated and ranked; and
 - (14) the criteria to be used in evaluating the technical proposals, and the relative weighting of those criteria.
- (b) The formula used to evaluate proposals under Subsection (a)(13) must allocate at least 70 percent of the weighting to the cost proposal.
- (c) A request for proposals must also include a general form of the design-build contract that the department proposes and that may be modified as a result of negotiations prior to contract execution.
- (d) Each response to a request for proposals must include a sealed technical proposal and a separate sealed cost proposal submitted to the department by the date specified in the request for proposals.
- (e) The technical proposal must address:
- (1) the proposer's qualifications and demonstrated technical competence, unless that information was submitted to the department and evaluated by the department under Section 223.245;
 - (2) the feasibility of developing the project as proposed, including identification of anticipated problems;
 - (3) the proposed solutions to anticipated problems;
 - (4) the ability of the proposer to meet schedules;
 - (5) the conceptual engineering design proposed; and
 - (6) any other information requested by the department.
- (f) The department may provide for the submission of alternative technical concepts by a proposer. If the department provides for the submission of alternative technical concepts, the department must prescribe a process for notifying a proposer whether the proposer's alternative technical concepts are approved for inclusion in a technical proposal.
- (g) The cost proposal must include:
- (1) the cost of delivering the project; and
 - (2) the estimated number of days required to complete the project.

(h) A response to a request for proposals shall be due not later than the 180th day after the final request for proposals is issued by the department. This subsection does not preclude the release by the department of a draft request for proposals for purposes of receiving input from short-listed proposers.

(i) The department shall first open, evaluate, and score each responsive technical proposal submitted on the basis of the criteria described in the request for proposals and assign points on the basis of the weighting specified in the request for proposals. The department may reject as nonresponsive any proposer that makes a significant change to the composition of its design-build team as initially submitted that was not approved by the department as provided in the request for proposals. The department shall subsequently open, evaluate, and score the cost proposals from proposers that submitted a responsive technical proposal and assign points on the basis of the weighting specified in the request for proposals. The department shall rank the proposers in accordance with the formula provided in the request for proposals.

Sec. 223.247. NEGOTIATION. (a) After ranking the proposers under Section 223.246(i), the department shall first attempt to negotiate a contract with the highest ranked proposer. The department may include in the negotiations alternative technical concepts proposed by other proposers, subject to Section 223.249.

(b) If the department is unable to negotiate a satisfactory contract with the highest ranked proposer, the department shall, formally and in writing, end all negotiations with that proposer and proceed to negotiate with the next proposer in the order of the selection ranking until a contract is reached or negotiations with all ranked proposers end.

Sec. 223.248. ASSUMPTION OF RISKS AND COSTS. (a) Except as provided by Subsection (b), the department shall assume:

(1) all risks and costs associated with:

(A) changes and modifications to the scope of the project requested by the department;

(B) unknown or differing conditions at the site of the project;

(C) applicable environmental clearance and other regulatory permitting necessary for the project; and

(D) natural disasters and other force majeure events; and

(2) all costs associated with property acquisition, other than costs associated with acquiring a temporary easement or work area used for staging or constructing the project.

(b) A design-build contractor may assume some or all of the risks or costs described by Subsection (a) if the terms of the assumption are reflected in the final request for proposals, including all supplements to the request.

Sec. 223.249. STIPEND AMOUNT FOR UNSUCCESSFUL PROPOSERS.

(a) The department shall pay an unsuccessful proposer that submits a responsive proposal a stipend for the work product contained in the proposal that the department determines can be used by the department in the performance of the department's functions. The stipend must be a minimum of twenty-five hundredths of one percent of the contract amount and must be specified in the initial request for proposals, but may not exceed the value of the work product contained in the proposal that the department determines can be used by the department in the performance of the

department's functions. If the department determines that the value of the work product is less than the stipend amount, the department shall provide the proposer with a detailed explanation of the valuation, including the methodology and assumptions used by the department in determining the value of the work product. After payment of the stipend, the department may make use of any work product contained in the unsuccessful proposal, including the techniques, methods, processes, and information contained in the proposal. The use by the department of any design element contained in an unsuccessful proposal is at the sole risk and discretion of the department and does not confer liability on the recipient of the stipend under this subsection.

(b) In a request for proposals, the department shall provide for the payment of a partial stipend in the event that a procurement is terminated before the execution of a design-build contract.

Sec. 223.250. PERFORMANCE OR PAYMENT BOND. (a) The department shall require a design-build contractor to provide:

(1) a performance and payment bond;

(2) an alternative form of security; or

(3) a combination of the forms of security described by Subdivisions (1) and

(2).

(b) Except as provided by Subsection (c), a performance and payment bond, alternative form of security, or combination of the forms shall be in an amount equal to the cost of constructing or maintaining the project.

(c) If the department determines that it is impracticable for a private entity to provide security in the amount described by Subsection (b), the department shall set the amount of the security.

(d) A performance and payment bond is not required for the portion of a design-build contract under this section that includes design services only.

(e) The department may require one or more of the following alternative forms of security:

(1) a cashier's check drawn on a financial entity specified by the department;

(2) a United States bond or note;

(3) an irrevocable bank letter of credit provided by a bank meeting the requirements specified in the request for proposals; or

(4) any other form of security determined suitable by the department.

(f) Section 223.006 of this code and Chapter 2253, Government Code, do not apply to a bond or alternative form of security required under this section.

Floor Amendment No. 15

Amend Floor Amendment No. 14 by Harper-Brown to **CSSB 1420** (page 37 of the prefiled amendments packet) as follows:

(1) On page 2, line 2, strike "not more than three".

(2) On page 2, line 3, strike "each of which" and substitute "if the contract".

(3) On page 2, line 5, strike ", in any fiscal year".

(4) On page 4, lines 10-12, strike "If the department receives only one responsive qualifications statement, the department shall terminate the procurement" and substitute "If the department receives only one responsive qualifications statement to a request for qualifications, an independent audit by the comptroller's office must confirm and validate that:

(1) the project, for which the request for qualifications was issued, delivered value for the public investment; and

(2) no anti-competitive practices were involved in the procurement".

Floor Amendment No. 18

Amend **CSSB 1420** on page 1 line 14 (committee printing) by adding a new Subsection (4), as follows and renumber accordingly

(4) A coordinated county transportation authority; or

Floor Amendment No. 20

Amend Amendment No. 18 by Crossover to **CSSB 1420** (page 73 of the prefiled amendments packet) by adding the following appropriately numbered item to the amendment:

(____) Add the following appropriately numbered SECTIONS to the bill and renumber subsequent SECTIONS of the bill as appropriate:

SECTION _____. Section 456.003, Transportation Code, is amended to read as follows:

Sec. 456.003. PARTICIPATION INELIGIBILITY. A transit authority is ineligible to participate in the formula or discretionary program provided by this chapter unless the authority was created under Chapter 453 or former Article 1118z, Revised Statutes, by a municipality having a population of less than 200,000 at the time the authority is created.

SECTION _____. Section 456.006, Transportation Code, is amended by adding Subsections (b-1) and (b-2) to read as follows:

(b-1) Notwithstanding Subsection (b), an urban transit district that was not included in an urbanized area containing a transit authority according to the 2000 federal decennial census but, as a result of the 2010 federal decennial census urban and rural classification, is included in an urbanized area that contains one or more transit authorities may receive money from the formula or discretionary program in an amount that does not exceed the amount of funds allocated to the district during the fiscal biennium ending August 31, 2011. This subsection expires August 31, 2018.

(b-2) The population of a municipality that was considered part of an urban transit district for purposes of the state transit funding formula for the fiscal biennium ending August 31, 2011, but that is included in a large urbanized area as a result of the 2010 federal decennial census, continues to be considered part of the urban transit district for purposes of the state transit funding formula. This subsection expires August 31, 2018.

SECTION _____. Subchapter B, Chapter 456, Transportation Code, is amended by adding Section 456.0221 to read as follows:

Sec. 456.0221. ALLOCATION TO CERTAIN RECIPIENTS AFFECTED BY NATURAL DISASTER. (a) The commission shall consider as an urban transit district for the purposes of the allocation of funds under this chapter a designated recipient:

(1) that received money under the formula as an urban transit district for the fiscal biennium ending August 31, 2011;

(2) whose population according to the most recent decennial census is less than 50,000; and

(3) whose population loss over the preceding 10-year period is primarily the result of a natural disaster.

(b) This section expires August 31, 2018.

Floor Amendment No. 21

Amend the Crossover amendment No. 18 on page 73 to **CSSB 1420** by adding, following the word "authority" the phrase ", Chapter 451 Authority".

Floor Amendment No. 22

Amend **CSSB 1420** (house committee printing) as follows:

(1) On page 1, line 17, between "Subsections" and "(d)", insert "(a), (b),".

(2) On page 1, between lines 18 and 19, insert the following:

(a) The Texas Transportation Commission consists of five members, of whom:

(1) three are appointed by the governor with the advice and consent of the senate;

(2) one is appointed by the governor with the advice and consent of the senate, selected from a list of individuals provided by the speaker of the house of representatives; and

(3) one is appointed by the lieutenant governor.

(b) The members shall be appointed to reflect the diverse geographic regions and population groups of this state. One member appointed by the governor under Subsection (a)(1) must reside in a rural area.

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

SECTION _____. The appointment of members of the Texas Transportation Commission, as provided by Section 201.051(a), Transportation Code, as amended by this Act, shall be made as follows:

(1) for the two terms expiring February 1, 2013, the governor and the lieutenant governor shall each make an appointment;

(2) for the two terms expiring February 1, 2015, the governor shall make one appointment and the governor shall make one appointment selected from a list provided by the speaker of the house of representatives; and

(3) for the term expiring February 1, 2017, the governor shall make the appointment.

Floor Amendment No. 23

Amend **CSSB 1420** (house committee report) as follows:

(1) On page 4, line 12, strike "(a)".

(2) On page 4, line 15, strike "department shall employ" and substitute "commission shall appoint".

(3) On page 4, lines 15-17, strike "The chief financial officer must be a certified public accountant who is licensed and in good standing in this state." and substitute "The chief financial officer must:

(1) have at least one master's or doctoral degree; and

(2) be a certified public accountant who is licensed and in good standing in this state."

(4) On page 4, strike lines 18-24 and substitute the following:

(b) The chief financial officer shall oversee the department's financial activities, including:

(1) managing department debt;

(2) exploring new mechanisms to finance transportation projects;

(3) budgeting for pass-through toll projects and department contracts; and

(4) overseeing the project delivery office established under Section

201.1076.

(5) On page 5, strike lines 8-16.

(6) On page 8, line 24, strike "Section 201.401(a), Transportation Code, is" and substitute "(a) Sections 201.401(a) and (b), Transportation Code, are".

(7) On page 9, between lines 14 and 15, insert the following:

(b) A person may not act as general, outside, or retained counsel to the department if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the department. A person who acts as general counsel to the department must be licensed as an attorney in this state.

(b) The changes in law made by this Act to Section 201.401, Transportation Code, in the qualifications of the general counsel of the Texas Department of Transportation do not affect the entitlement of a person serving in that position immediately before the effective date of this Act to continue to carry out the position's functions for the remainder of the position's term. The changes in law apply only to a general counsel appointed on or after the effective date of this Act. This Act does not prohibit a person who is serving as the general counsel on the effective date of this Act from being reappointed to that position if the person has the qualifications required for the position under Section 201.401, Transportation Code, as amended by this Act.

(8) Add the following appropriately numbered SECTIONS and renumber the remaining SECTIONS of the bill accordingly:

SECTION _____. Subchapter A, Chapter 201, Transportation Code, is amended by adding Section 201.004 to read as follows:

Sec. 201.004. CONSIDERATION OF OUTSIDE APPLICANTS. In making an appointment under this chapter, the commission shall consider applicants from outside the department.

SECTION _____. Subchapter C, Chapter 201, Transportation Code, is amended by adding Section 201.1076 to read as follows:

Sec. 201.1076. PROJECT DELIVERY OFFICE. The chief financial officer shall establish and oversee a project delivery office within the department to coordinate the activities of other department offices and personnel to accomplish the commission's financial objectives and fulfill the appointing authority's financial reporting requirements.

SECTION _____. (a) Section 201.108, Transportation Code, is amended to read as follows:

Sec. 201.108. INTERNAL AUDITOR. (a) The commission shall appoint an internal auditor for the department. The auditor must:

(1) have at least one master's or doctoral degree;

(2) be a certified public accountant who is licensed and in good standing in this state;

(3) be a certified internal auditor; and

(4) have demonstrated experience in preparing financial statements and reports.

(b) The auditor shall:

(1) report directly to the commission on the conduct of department affairs;

(2) administer and oversee compliance functions of the department; and

(3) facilitate preparation of financial statements or reports required by law to be filed by the commission.

(b) The changes in law made by this Act to Section 201.108, Transportation Code, in the qualifications of the internal auditor of the Texas Department of Transportation do not affect the entitlement of a person serving in that position immediately before the effective date of this Act to continue to carry out the position's functions for the remainder of the position's term. The changes in law apply only to an internal auditor appointed on or after the effective date of this Act. This Act does not prohibit a person who is serving as the internal auditor on the effective date of this Act from being reappointed to that position if the person has the qualifications required for the position under Section 201.108, Transportation Code, as amended by this Act.

Floor Amendment No. 24

Amend the amendment No. 23 identified as Chief Clerk's #821506 found at page 78 of prefiled amendments to **CSSB 1420** (house committee report), as follows:

In an appropriately numbered section of the bill, insert the following subparagraphs (to be properly enumerated):

() A person may not act as general, outside, or retained counsel to the department if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the department. A person who acts as general counsel to the department must be licensed as an attorney in this state.

() The changes in law made by this Act to Section 201.401, Transportation Code, in the qualifications of the general counsel of the Texas Department of Transportation do not affect the entitlement of a person serving in that position immediately before the effective date of this Act to continue to carry out the position's functions for the remainder of the position's term. The changes in law apply only to a general counsel appointed on or after the effective date of this Act. This Act does not prohibit a person who is serving as the general counsel on the effective date of this Act from being reappointed to that position if the person has the qualifications required for the position under Section 201.401, Transportation Code, as amended by this Act.

Floor Amendment No. 25

Amend **CSSB 1420** (house committee report) as follows:

(1) On page 4, lines 16-17, strike "be a certified public accountant who is licensed and in good standing in this state" and substitute "have at least 10 years of progressively responsible professional experience in fiscal management practices and procedures, with at least 7 years of progressively responsible managerial experience".

(2) Strike page 4, line 18, through page 5, line 4, and substitute the following:

(b) The chief financial officer shall:

(1) oversee:

(A) the department's financial activities, including managing the department's debt and loan portfolio and exploring new mechanisms to finance transportation projects; and

(B) the management of the state highway fund; and

(2) certify each month that any state highway construction and maintenance contracts to be awarded by the department during that month will not create state liability that exceeds the department's most recent cash flow forecast.

(3) On page 5, line 5, strike "(d)" and substitute "(c)".

(4) On page 5, line 8, strike "(e)" and substitute "(d)".

Floor Amendment No. 26

Amend **CSSB 1420** (house committee report) as follows:

(1) On page 4, line 20, strike "debt portfolio" and substitute "loan portfolio".

(2) On page 4, strike lines 21-24 and substitute the following:

(2) financial forecasting of the department's revenues and expenditures;

(3) establishing and monitoring of the department's budget; and

(4) financial reporting on federal and state programs.

(3) Strike page 4, line 25, through page 5, line 4, and substitute the following:

(c) The chief financial officer shall certify each month that any state highway construction and maintenance contracts to be awarded by the department during that month will not create state liability that exceeds the department's most recent cash flow forecast.

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

SECTION _____. Section 201.209, Transportation Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) The department by rule shall adopt policies and procedures consistent with applicable state procurement practices for soliciting and awarding the contracts under Subsection (a) [~~this section~~].

(c) The department may contract with experts and consultants to assist the department:

(1) in matters involving debt management, comprehensive development agreements, regional mobility authorities, toll roads, or public-private partnerships; and

(2) in exploring other mechanisms to finance transportation projects.

Floor Amendment No. 27

Amend **CSSB 1420** (house committee printing) as follows:

(1) On page 1, line 17, between "Subsections" and "(d)", insert "(b),".

(2) On page 1, between lines 18 and 19, insert the following:

(b) The members shall be appointed to reflect the diverse geographic regions and population groups of this state. One member must reside in a rural area and be a registered voter of a county with a population of less than 100,000.

Floor Amendment No. 28

Amend Amendment No. 27 by Kolkhorst to **CSSB 1420** (page 77 of the prefiled amendments packet) as follows:

(1) On page 1, line 10 of the amendment, strike "100,000" and substitute "150,000".

(2) At the end of the amendment, add:

(3) On page 1, line 16, of the bill, between "SECTION 2." and "Section" insert "(a)".

(4) On page 3, between lines 9 and 10 of the bill, insert:

(b) Section 201.051(b), Transportation Code, as amended by this Act, does not affect the right of a commissioner serving on the effective date of this Act to complete the commissioner's term. The requirement of Section 201.051(b), Transportation Code, as amended by this Act, applies at the time a vacancy occurs in the position held by the person serving as the rural designee on the effective date of this Act.

Floor Amendment No. 30

Amend **CSSB 1420** (house committee printing) as follows:

(1) On page 5, line 18, strike "and 201.119" and substitute ", 201.119, and 201.120".

(2) On page 7, between lines 6 and 7, insert the following:

Sec. 201.120. LEGISLATIVE APPROPRIATIONS REQUEST. (a) Department staff shall deliver the department's legislative appropriations request to the commission in an open meeting not later than the 30th day before the date the department submits the legislative appropriations request to the Legislative Budget Board.

(b) The commission may adopt the legislative appropriations request in the meeting described by Subsection (a) or in a subsequent open meeting.

Floor Amendment No. 31

Amend **CSSB 1420** (house committee report) on page 8, line 9, by striking "and programs".

Floor Amendment No. 32

Amend **CSSB 1420** (house committee printing) as follows:

On page 24, beginning at line 1, amend SECTION 21 (or an appropriately numbered SECTION) of the bill, by adding Subdivision (h) to Sec. 201.808 of Subchapter J, Chapter 201, Transportation Code to read as follows:

(h) To provide a means of verifying the accuracy of information being made available through the transportation expenditure reporting system, the department shall retain and archive appropriate documentation supporting the expenditure information or data summary that is detailed in the reporting system, by archiving true and correct copies of the original supporting documentation in digital, electronic, or other appropriate format of storage or imaging that allows departmental management and retrieval of the records. Supporting documentation may include, but is not limited to, contract or transactional documents, letter agreements, invoices, statements, payment vouchers, requests for object of expenditure payments to be made by or on behalf of the department, and other items establishing the purpose and payment of the expenditure. Such documentation shall be retained for the applicable period of time as set forth in the Texas Administrative Code for records retention and destruction according to rules promulgated by the Texas State Library and Archives Commission.

Floor Amendment No. 34

Amend **CSSB 1420** (house committee printing) as follows:

On page 7, between lines 25 and 27, and on page 8, line 1, amend SECTION 10 (or an appropriately numbered SECTION) of the bill as follows:

Sec. 201.210. LEGISLATIVE LOBBYING. (a) In addition to Section 556.006, Government Code, the commission or a department employee may not ~~use money under the department's control or~~ engage in an activity on behalf of the department to influence the passage or defeat of legislation.

Floor Amendment No. 35

Amend Amendment No. 34 by McClendon to **CSSB 1420** (page 87 of the prefiled amendments packet) on page 1, by striking line 8 and substituting "employee may not use money under the department's control or".

Floor Amendment No. 37

Amend **CSSB 1420** (house committee report) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION ____ . Section 201.105, Transportation Code, is amended by adding the following Subsection (b-1) to read as follows:

(b-1) In determining district boundaries, the commission shall include Val Verde County in the district that contains Tom Green County.

Floor Amendment No. 43

Amend **CSSB 1420** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION ____ . Subchapter H, Chapter 201, Transportation Code, is amended by adding Section 201.622 to read as follows:

Sec. 201.622. BUSINESS ADOPTION OF INTERSECTION PROGRAM. (a) This section applies only to a municipality with a population of 100,000 or more.

(b) Each district engineer shall prepare and submit a plan to the department for a program to encourage businesses to adopt and maintain state highway intersections in each municipality in the district.

(c) A plan submitted under this section must include recognition for a business that maintains and improves the appearance of an intersection.

(d) The department shall adopt rules for the selection or approval of plans and for the implementation of plans.

Floor Amendment No. 46

Amend **CSSB 1420** by adding the following appropriately numbered SECTION to the bill and renumbering the remaining SECTIONS of the bill accordingly:

SECTION _____. Subchapter H, Chapter 201, Transportation Code, is amended by adding Section 201.622 to read as follows:

Sec. 201.622. WILDFIRE EMERGENCY EVACUATION ROUTE. (a) Notwithstanding Section 418.018, Government Code, in a county (1) of less than 75,000 and (2) with a verifiable history of wildfire, the department may designate an emergency evacuation route for use in the event of a wildfire emergency. The department may establish criteria to determine which areas of a county are subject to a potential wildfire emergency.

(b) The department may assist in the improvement of a designated wildfire emergency evacuation route.

(c) Criteria for determining a wildfire emergency evacuation route must provide for evacuation of commercial establishments such as motels, hotels and other businesses with overnight accommodations.

(d) A wildfire emergency evacuation route designated under Subsection (a) may include federal or state highways or county roads.

Floor Amendment No. 48

Amend **CSSB 1420** (House committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Sections 201.943(b), (c), (d), (e), and (f), Transportation Code, are amended to read as follows:

(b) Obligations must be secured by and payable from a pledge of and lien on all or part of the money in the fund, including the revenues of this state that are dedicated or appropriated for deposit to the fund. Obligations may be additionally secured by and payable from credit agreements. The commission may pay amounts due on the obligations from discretionary money available to it that is not dedicated to or appropriated for other specific purposes.

(c) The commission may create within the fund accounts, reserves, and subfunds for purposes the commission finds appropriate and necessary [~~in connection with the issuance of obligations~~].

(d) Obligations may be issued for one or more of the following purposes:

(1) to pay all or part of the costs of constructing, reconstructing, acquiring, and expanding state highways, including any necessary design and acquisition of rights-of-way, in the manner and locations determined by the commission that, according to conclusive findings of the commission, have an expected useful life, without material repair, of not less than 10 years;

(2) to provide participation by the state in the payment of part of the costs of constructing and providing publicly owned toll roads and other public transportation projects that are determined by the commission to be in the best interests of the state in its major goal of improving the mobility of the residents of the state;

(3) to make loans for a purpose described in Subdivision (1) or (2) to public entities, including a municipality, county, district, authority, agency, department, board, commission, or transportation corporation created under Chapter 431, that are authorized by law to construct, maintain, or finance a highway improvement project, toll road project, or public transportation project;

(4) to create debt service reserve accounts;

(5) ~~(4)~~ to pay interest on obligations for a period of not longer than two years;

(6) ~~(5)~~ to refund or cancel outstanding obligations; and

(7) ~~(6)~~ to pay the commission's costs of issuance.

(e) Long-term obligations in the amount proposed to be issued by the commission may not be issued unless the comptroller projects in a comptroller's certification that the amount of money dedicated to the fund pursuant to Section 49-k(e), Article III, Texas Constitution, and required to be on deposit in the fund pursuant to Section 49-k(f), Article III, Texas Constitution, together with any other money or revenues that the commission pledges or otherwise commits for the purposes of the fund, including loan repayments to be deposited in the fund under Section 201.9461, receipts from credit agreements, and money received or to be received from the federal government, uncommitted fund balances, and the investment earnings on ~~that~~ money in the fund, during each year of the period during which the proposed obligations are scheduled to be outstanding will be equal to at least 110 percent of the requirements to pay the principal of and interest on the proposed long-term obligations during that year.

(f) Short-term obligations in the amount proposed by the commission may not be issued unless the comptroller, in a comptroller's certification:

(1) assumes that the short-term obligations will be refunded and refinanced to mature over a 30-year ~~[20-year]~~ period with level debt service ~~[principal]~~ requirements and bearing interest at then current market rates, as determined by the comptroller; and

(2) projects that the amount of money dedicated to the fund pursuant to Section 49-k(e), Article III, Texas Constitution, and required to be on deposit in the fund pursuant to Section 49-k(f), Article III, Texas Constitution, together with any other money or revenues that the commission pledges or otherwise commits for the purposes of the fund, including loan repayments to be deposited in the fund under Section 201.9461, receipts from credit agreements, and money received or to be received from the federal government, uncommitted fund balances, and the investment earnings on ~~that~~ money in the fund, during each year of the assumed 30-year ~~[20-year]~~ period will be equal to at least 110 percent of the requirements to pay the principal of and interest on the proposed refunding obligations during that year.

SECTION _____. Subchapter M, Chapter 201, Transportation Code, is amended by adding Sections 201.9461 and 201.9462 to read as follows:

Sec. 201.9461. REPAYMENT TERMS; DEPOSIT OF REPAYMENTS. (a) For money disbursed from the fund as a loan, the commission shall determine the terms and conditions of repayment, including the interest rate to be charged.

(b) The department shall deposit in the fund all amounts received from repayment of a loan.

Sec. 201.9462. BORROWING FROM FUND BY PUBLIC ENTITY. (a) A public entity, including a municipality, county, district, authority, agency, department, board, commission, or transportation corporation created under Chapter 431, that is authorized by law to construct, maintain, or finance a highway improvement project, toll road project, or public transportation project may borrow money from the fund and may enter into any agreement relating to receiving a loan made from money in the fund.

(b) Money borrowed under Subsection (a) must be segregated from other funds under the control of the public entity and may be used only for a purpose authorized by this subchapter.

(c) To provide for the repayment of a loan, 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 money 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.

SECTION _____. Sections 222.003(c) and (e), Transportation Code, are amended to read as follows:

(c) Proceeds from the sale of bonds and other public securities issued under this section may ~~shall~~ be used to:

(1) fund state highway improvement projects; and

(2) make loans for the purpose described by Subdivision (1) to public entities, including a municipality, county, district, authority, agency, department, board, commission, or transportation corporation created under Chapter 431, that are authorized by law to construct, maintain, or finance a state highway improvement project.

(e) The proceeds of bonds and other public securities issued under this section may not be used for any purpose other than any costs related to the bonds and other public securities and the purposes described by this section ~~[for which revenues are dedicated under Section 7 a, Article VIII, Texas Constitution]~~. The proceeds of bonds and other public securities issued under this section may not be used for the construction of a state highway or other facility on the Trans-Texas Corridor. For purposes of this section, the "Trans-Texas Corridor" means the statewide system of multimodal facilities under the jurisdiction of the department that is designated by the commission, notwithstanding the name given to that corridor.

SECTION _____. Subchapter A, Chapter 222, Transportation Code, is amended by adding Sections 222.0031 and 222.0032 to read as follows:

Sec. 222.0031. REPAYMENT TERMS; DEPOSIT OF REPAYMENTS. (a) For money disbursed under Section 222.003 as a loan, the commission shall determine the terms and conditions of repayment, including the interest rates to be charged.

(b) The department shall deposit all amounts received from repayment of a loan in:

- (1) the state highway fund; or
- (2) a subaccount in the state infrastructure bank.

Sec. 222.0032. BORROWING FROM BOND PROCEEDS BY PUBLIC ENTITY. (a) A public entity, including a municipality, county, district, authority, agency, department, board, commission, or transportation corporation created under Chapter 431, that is authorized by law to construct, maintain, or finance a state highway improvement project may borrow money from the department through a loan made under Section 222.003, and may enter into any agreement relating to receiving a loan under that section.

(b) Money borrowed under Subsection (a) must be segregated from other funds under the control of the public entity and may be used only for the purpose authorized by Section 222.003(c)(1).

(c) To provide for the repayment of a loan, 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 money as authorized by Subsection (a) and to pledge revenues, income, or taxes, or any combination of revenues, income, and taxes, to the repayment of a loan.

SECTION ____. Sections 222.004(b) and (g), Transportation Code, are amended to read as follows:

(b) The commission by order or resolution may issue general obligation bonds for the purposes provided in this section. The commission may at any time during a biennium issue bonds or other public securities, and enter into related credit agreements, up to the aggregate amount of general obligation bond proceeds appropriated for that biennium, notwithstanding any estimate in an appropriations act relating to amounts expected to be expended in a fiscal year during that biennium. The aggregate principal amount of the bonds that are issued may not exceed the amount specified by Section 49-p(a), Article III, Texas Constitution.

(g) Bonds may be issued for one or more of the following purposes:

- (1) to pay all or part of the costs of highway improvement projects;
 - (2) to make loans for the purpose described in Subdivision (1) to public entities, including a municipality, county, district, authority, agency, department, board, commission, or transportation corporation created under Chapter 431, that are authorized by law to construct, maintain, or finance a highway improvement project;
- and

(3) [~~2~~] to pay:

- (A) the costs of administering projects 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.

SECTION _____. Subchapter A, Chapter 222, Transportation Code, is amended by adding Sections 222.0041 and 222.0042 to read as follows:

Sec. 222.0041. REPAYMENT TERMS; DEPOSIT OF REPAYMENTS. (a) For money disbursed under Section 222.004 as a loan, the commission shall determine the terms and conditions of repayment, including the interest rates to be charged.

(b) The department shall deposit all amounts received from repayment of a loan made under Section 222.004 in a subaccount in the state infrastructure bank.

Sec. 222.0042. BORROWING FROM BOND PROCEEDS BY PUBLIC ENTITY. (a) A public entity, including a municipality, county, district, authority, agency, department, board, commission, or transportation corporation created under Chapter 431, that is authorized by law to construct, maintain, or finance a highway improvement project may borrow money from the department through a loan made under Section 222.004, and may enter into any agreement relating to receiving a loan under that section.

(b) Money borrowed under Subsection (a) must be segregated from other funds under the control of the public entity and may be used only for the purpose authorized by Section 222.004(g)(1).

(c) To provide for the repayment of a loan, 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 money from the fund as authorized by Subsection (a) and to pledge revenues, income, or taxes, or any combination of revenues, income, and taxes, to the repayment of a loan.

SECTION _____. (a) Section 222.103, Transportation Code, is amended by amending Subsections (a) and (b) and adding Subsection (b-1) to read as follows:

(a) The department may participate, by spending money from any available source, in the cost of the acquisition, construction, maintenance, or operation of a toll facility of a public or private entity on terms and conditions established by the commission. The commission:

(1) shall ~~may~~ require:

(A) the repayment of any money spent by the department for the cost of a toll facility of a public entity; or

(B) the public entity to agree to share project revenue with the department, on terms and conditions approved by the commission; and

(2) shall require the repayment of any money spent by the department for the cost of a toll facility of a private entity.

(b) Money repaid as required by the commission and other payments received by the department in connection with an expenditure made under this section shall be deposited to the credit of the fund or account from which the expenditure was made except as otherwise required. Money deposited as required by this section is exempt from the application of Section 403.095, Government Code.

(b-1) Loan repayments and revenue sharing and other payments received by the department in connection with an expenditure made under this section may be used by the commission or the department to finance the construction, maintenance, or operation of tolled or nontolled transportation projects, as defined by Section 228.001, in any location in this state.

(b) Section 222.103(a), Transportation Code, as amended by this section, applies only to money loaned by the Texas Department of Transportation on or after the effective date of this Act.

Floor Amendment No. 49

Amend **CSSB 1420** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering the remaining SECTIONS of the bill accordingly:

SECTION _____. Subchapter Y, Chapter 201, Transportation Code, is amended by adding Section 201.2002 to read as follows:

Sec. 201.2002. JAMES E. "PETE" AND NELDA LANEY REST AREAS. (a) The northbound and southbound rest areas located on Interstate Highway 27 in Hale County are designated as the James E. "Pete" and Nelda Laney Rest Areas.

(b) The department shall design and construct markers at each rest area described by Subsection (a) indicating the designation of those rest areas as the James E. "Pete" and Nelda Laney Rest Areas and any other appropriate information.

(c) The department shall erect markers at appropriate locations at the rest areas.

(d) Notwithstanding Subsections (b) and (c), the department is not required to design, construct, or erect a marker under this section unless a grant or donation of private funds is made to the department to cover the cost of the design, construction, and erection of the marker.

(e) Money received under Subsection (d) shall be deposited to the credit of the state highway fund.

Floor Amendment No. 50

Amend **CSSB 1420** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS as appropriate:

SECTION _____. Chapter 221, Transportation Code, is amended by adding Section 221.004 to read as follows:

Sec. 221.004. STATE BYWAYS PROGRAM. (a) The department shall develop, implement, and administer a program to:

(1) designate as scenic byways, highways or portions of highways in the state highway system that have notable scenic or historic qualities; and

(2) pursue funding under the federal scenic byways program for projects on highways designated as scenic byways.

(b) The department shall:

(1) adopt rules for the administration of this section and the state byways program; and

(2) structure the program under this section to maximize the amount of money available from the federal government for the program.

(c) At a minimum, the department shall designate the following highways as scenic byways:

- (1) State Highway 16 through Bandera, Kerr, Gillespie, and Llano Counties;
- (2) Interstate Highway 10 through Kendall, Kerr, Gillespie, and Kimble Counties;
- (3) State Highway 83 through Uvalde, Real, Kerr, Kimble, and Menard Counties; and
- (4) State Highway 29 through Menard, Mason, and Llano Counties.

Floor Amendment No. 51

Amend Amendment No. 50 by Hilderbran to **CSSB 1420** (page 143 of the prefiled amendments packet) on page 1, by striking lines 19-28 and substituting the following:

(c) This section applies only to Kerr and Kimble Counties.

Floor Amendment No. 52

Amend **CSSB 1420** (house committee report) by adding the following appropriately numbered SECTIONS and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 222.071, Transportation Code, is amended by adding Subdivisions (1-a), (2-a), and (7) and amending Subdivision (5) to read as follows:

(1-a) "Bond" includes a bond, note, or other public security.
(2-a) "Credit agreement" has the meaning assigned by Section 1371.001, Government Code.

(5) "Qualified project" includes:

- (A) the construction of a federal-aid highway;
- (B) a transit project under 49 U.S.C. Sections 5307, 5309, and 5311;

[~~or~~]

(C) for the expenditure of secondary funds from a subaccount subject to the federal act, a project eligible for assistance under Title 23 or Title 49, United States Code; or

(D) a transportation project.

(7) "Transportation project" means a tolled or nontolled highway improvement project.

SECTION _____. Section 222.072, Transportation Code, is amended to read as follows:

Sec. 222.072. STATE INFRASTRUCTURE BANK. (a) The state infrastructure bank is an account held by the Texas Treasury Safekeeping Trust Company ~~[in the state highway fund]~~. The bank is administered by the commission.

(b) The commission may deposit in the bank money derived from any source available to the commission, including:

(1) federal [~~Federal~~] funds received by the state, including funds received under the federal act;

(2) [~~7~~] matching state funds in an amount required by the federal [~~that~~] act;

(3) if appropriated by the legislature for that purpose:

(A) proceeds from bonds issued under Section 222.003;

(B) proceeds from bonds issued under Section 222.004; and

(C) other direct appropriations;

(4) proceeds from bonds issued under Section 201.943 and money provided by the commission from the Texas Mobility Fund that is in excess of the amount required to be on deposit in the Texas Mobility Fund under the proceedings that authorize Texas Mobility Fund bonds and credit agreements;

(5) a repayment of principal and interest on a loan made under Section 222.074;

(6) proceeds from the sale of loans under Section 222.078;

(7) [7] proceeds from bonds issued under Section 222.075;

(8) [7] secondary funds; and

(9) a gift or grant [7, other state funds deposited into the bank by order of the commission, and other money received by the state that is eligible for deposit in the bank may be deposited into the bank and used only for the purposes described in this subchapter].

(c) The commission shall prepare and file biennially a report with the governor, the lieutenant governor, and the Legislative Budget Board that provides information on the operation of the bank, including:

(1) the amounts and sources of money deposited in the bank during the most recent biennium;

(2) investments and returns on investments of money in the bank during the most recent biennium;

(3) loans made from the bank during the most recent biennium;

(4) other financial assistance provided from the bank during the most recent biennium;

(5) the status of any defaults on repayment of loans or other financial assistance provided from the bank; and

(6) the details of any qualified project for which financial assistance is received from the bank during the most recent biennium, including the identity of a highway that is directly affected by the project and the degree to which the project is designed to reduce congestion, improve traffic safety, and enhance connectivity.

SECTION _____. Section 222.074, Transportation Code, is amended by amending Subsection (a) and adding Subsections (d), (e), (f), and (g) to read as follows:

(a) To further a purpose described by Section 222.073, the commission may use money deposited to the credit of the bank to provide financial assistance to a public or private entity, including the department, for a qualified project to:

(1) extend credit by direct loan, including by purchasing an obligation of a public entity;

(2) provide liquidity or credit enhancement, including through an agreement to:

(A) provide a loan to a public or private entity; or

(B) purchase a bond, note, or other obligation from a public entity [enhancements];

(3) serve as a capital reserve for bond or debt instrument financing;

(4) subsidize interest rates;

(5) insure the issuance of a letter of credit or credit instrument;

(6) finance a purchase or lease agreement in connection with a transit project;

(7) provide security for bonds and other debt instruments; ~~or~~

(8) provide capitalized interest for debt financing by a public or private entity;

(9) provide a guarantee of the payment of operation and maintenance costs of a qualified project by a public entity;

(10) pay the cost of issuing a bond or other debt instrument; or

(11) provide methods of leveraging money that have been approved by the United States secretary of transportation and relate to the project for which the assistance is provided.

(d) The proceeds from bonds issued under Section 222.003 or 222.004 may only be used to provide financial assistance for a highway improvement project, subject to any limitations prescribed by law.

(e) Money from the Texas Mobility Fund may only be used to provide financial assistance for a state highway improvement project, publicly owned toll road, or public transportation project, that is located on or off of the state highway system, subject to any limitations prescribed by law.

(f) The commission may require a public or private entity that requests financial assistance from the bank to pay an application fee and other reasonable amounts in connection with the request. The commission shall deposit revenue collected under this subsection to the credit of the state highway fund.

(g) The department shall monitor the use of financial assistance provided to a public or private entity to ensure that the assistance is used for a purpose authorized by law. The department may audit a book or record of a public or private entity for that purpose.

SECTION _____. Section 222.0745, Transportation Code, is amended to read as follows:

Sec. 222.0745. INCURRENCE OF DEBT BY PUBLIC ENTITY. (a) A public entity in this state, including a municipality, county, district, authority, agency, department, board, or commission, that is authorized by law to construct, maintain, or finance a qualified project may:

(1) borrow money from the bank, including by direct loan or through another form of financial assistance; and

(2) enter into an agreement that relates to receiving financial assistance from the bank ~~[based on the credit of the public entity].~~

(b) Money received by a public entity under this subchapter ~~[borrowed under this section]~~ must be segregated from other funds under the control of the public entity and may only be used for purposes authorized by this subchapter ~~[related to a qualified project].~~

(c) To provide for the repayment of a loan or another form of financial assistance from the bank, a public entity may:

(1) pledge revenue or income from any available source;

(2) pledge, impose, or collect a tax that the entity is otherwise authorized to impose; or

(3) pledge any combination of revenue, income, or taxes.

(d) This section is wholly sufficient authority for a public entity to:

(1) borrow or otherwise obtain a form of financial assistance from the bank as authorized by this subchapter; and

(2) pledge revenue, income, or taxes or any combination of revenue, income, or taxes for the repayment of a loan or another form of financial assistance from the bank.

(e) The authority granted by this section does not affect the ability of a public entity to incur debt using other statutorily authorized methods.

SECTION _____. Sections 222.075(b), (f), (i), and (j), Transportation Code, are amended to read as follows:

(b) Except as provided by Subsection (c), the commission may:

(1) issue revenue bonds or revenue refunding bonds under this section without complying with any other law applicable to the issuance of bonds; and

(2) enter into a credit agreement related to the bonds.

(f) The commission may require participants to make charges, levy taxes, or otherwise provide for sufficient money to repay financial assistance provided from the bank, including any [pay] acquired obligations.

(i) Before the commission issues revenue bonds or enters into a credit agreement under this section, the commission shall submit a record of the [All] proceedings of the commission that authorize [relating to] the issuance, execution, and delivery of the [revenue] bonds or credit agreement and any contract that provides revenue or security to pay the bonds or credit agreement [issued under this section shall be submitted] to the attorney general for review [examination]. If the attorney general finds that the proceedings authorizing the bonds or credit agreement and any bonds authorized by the proceedings conform to the requirements prescribed by the Texas Constitution and this subchapter [On determining that the revenue bonds have been authorized in accordance with law], the attorney general shall approve the proceedings and [revenue] bonds, and shall deliver to [the revenue bonds shall be registered by] the comptroller for registration a copy of the attorney general's legal opinion relating to the approval and a record of the proceedings. After approval by the attorney general, the bonds or credit agreement may be executed and delivered, exchanged, or refinanced in accordance with the authorization proceedings. After the approval and registration, the [revenue] bonds, credit agreement, or contract providing revenue or security included in or executed and delivered according to the authorization proceedings are incontestable in any court or other forum for any reason and are valid, [and] binding, and enforceable [obligations] in accordance with their terms for all purposes.

(j) The commission may use proceeds from the sale of revenue bonds to finance other funds or accounts relating to the bonds or credit agreement, including a debt service reserve fund, and to pay the cost of issuing the bonds. Any remaining [The] proceeds received from the sale of the [revenue] bonds shall be deposited in the bank and invested and used in the manner provided for other funds deposited under this subchapter.

SECTION _____. Section 222.076, Transportation Code, is amended by adding Subsection (c) to read as follows:

(c) The commission may create, within a subaccount, one or more additional subaccounts.

SECTION _____. Section 222.077, Transportation Code, is amended by amending Subsections (a) and (b) and adding Subsection (a-1) to read as follows:

(a) If a form of financial assistance [Any funds disbursed through the state infrastructure bank] must be repaid, [on terms determined by] the commission shall determine the terms of the repayment, including the interest rate to be charged. The terms must comply with the federal act except for terms applicable to funds deposited in a subaccount described by Section 222.076(b).

(a-1) For a tolled highway improvement project, the commission may require that revenue from the project be shared between an entity and the department. The entity and the department may enter into an agreement specifying the terms of the revenue sharing.

(b) Notwithstanding any other law to the contrary:

(1) the repayment of a loan or other assistance provided with money deposited to the credit of a subaccount in the bank, including all amounts received as a share of revenue from a tolled highway improvement project, shall be deposited in that subaccount; and

(2) investment income generated by money deposited to the credit of a subaccount in the bank shall be:

(A) credited to that subaccount, subject to any requirement imposed by a proceeding that authorizes bonds to be issued to provide money for deposit in the bank that is necessary to protect the tax-exempt status of interest payable on the bonds in accordance with applicable federal law;

(B) available for use in providing financial assistance under this subchapter; and

(C) invested in United States Treasury securities, bank deposits, or other financing instruments approved by the United States secretary of transportation to earn interest and enhance the financing of projects assisted by the bank, except that proceeds from bonds deposited in the bank under Section 222.072 are subject to any limitations contained in a document that authorizes the issuance of the bonds.

SECTION _____. Subchapter D, Chapter 222, Transportation Code, is amended by adding Sections 222.078 and 222.079 to read as follows:

Sec. 222.078. SALE OF LOAN. (a) In this section, "loan" includes any financial assistance that must be repaid and any portion of that assistance.

(b) The commission may sell a loan made from money in the bank. The commission shall deposit the proceeds from the sale in the bank.

(c) The commission may submit to the attorney general for review and approval a financial assistance agreement related to a loan to be sold under this section, including a record of proceedings of the borrowing entity that relates to the agreement. The agreement shall be considered a public security for purposes of Chapter 1202, Government Code.

(d) If the attorney general approves an agreement under Subsection (c), the agreement is:

(1) incontestable in a court or other forum; and

(2) valid, binding, and enforceable according to the agreement's terms, as provided by Chapter 1202, Government Code.

(e) The commission shall sell a loan under this section using a competitive bidding process and at a price and under terms that the commission determines to be reasonable.

(f) As part of a sales agreement with a purchaser of a loan, the commission may agree to perform a function required to enforce a condition or requirement stated in the loan, including enforcing the payment of debt service by the borrowing entity.

(g) 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.

(h) The state and the commission are not liable for the repayment of and may not repay a loan sold under this section.

Sec. 222.079. SOVEREIGN IMMUNITY. A public entity that receives financial assistance under this subchapter waives sovereign immunity to suit for the purpose of adjudicating a claim for breach of a financial assistance agreement.

Floor Amendment No. 53

Amend Amendment No. 52 to **CSSB 1420** (82R21087) as follows:

Strike lines 8-12 on page 8 of the amendment, and substitute the following:

"(a-1) For a tolled highway improvement project, the revenue from a project may be shared between an entity and the department. The entity and the department may enter into an agreement specifying the terms of the revenue sharing.

Floor Amendment No. 54

Amend **CSSB 1420** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter F, Chapter 201, Transportation Code, is amended by adding Section 201.407 to read as follows:

Sec. 201.407. EMPLOYEE SAFETY AWARDS. Notwithstanding Section 2113.201, Government Code, the department may award a cash safety bonus of not more than \$200 to an employee who:

(1) is at or below salary group B16 of the position classification schedule;

(2) holds a position that is classified by the executive director as safety-sensitive;

(3) works on a roadway for more than 50 percent of the hours worked by the employee; and

(4) during the preceding six months:

(A) exhibited exemplary safety performance and achievement; and

(B) did not receive a safety bonus under this section.

Floor Amendment No. 55

Amend Floor Amendment No. 54 by Martinez to **CSSB 1420** (page 99 of the prefiled amendment packet) on page 1, line 8, between "\$200" and "to" by inserting "per year".

Floor Amendment No. 56

Amend **CSSB 1420** (house committee report) by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 201.706, Transportation Code, is amended to read as follows:

Sec. 201.706. LOCAL GOVERNMENT ASSISTANCE. From appropriated funds, the department shall assist counties with materials to repair and maintain county roads. The department shall:

- (1) provide that the total annual value of assistance under this section is [~~+~~ ~~(A) at least \$12 million per year for fiscal years 1998 and 1999; and (B) at least \$18 [\$6] million [per year for a fiscal year other than 1998 or 1999];~~
 - (2) make maximum usage of surplus materials on hand;
 - (3) develop rules and procedures to implement this section and to provide for the distribution of the assistance with preference given to counties with an above average number of overweight trucks receiving weight tolerance permits based on the previous year's permit totals; and
 - (4) undertake cooperative and joint procurement of road materials with counties under procedures of the comptroller.

Floor Amendment No. 57

Amend Floor Amendment No. 56 to **CSSB 1420** (house committee report) by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 201.706, Transportation Code, is amended to read as follows:

Sec. 201.706. LOCAL GOVERNMENT ASSISTANCE. From appropriated funds, the department shall assist counties with materials to repair and maintain county roads. The department shall:

- (1) provide that the total annual value of assistance under this section is [~~+~~ ~~(A) at least \$12 million per year for fiscal years 1998 and 1999; and (B) at least \$12 [\$6] million [per year for a fiscal year other than 1998 or 1999];~~
 - (2) make maximum usage of surplus materials on hand;
 - (3) develop rules and procedures to implement this section and to provide for the distribution of the assistance with preference given to counties with an above average number of overweight trucks receiving weight tolerance permits based on the previous year's permit totals; and
 - (4) undertake cooperative and joint procurement of road materials with counties under procedures of the comptroller.

Floor Amendment No. 58

Amend **CSSB 1420** by adding the following appropriately numbered SECTION to the bill and renumbering the remaining SECTIONS of the bill accordingly:

SECTION _____. Subchapter I, Chapter 201, Transportation Code, is amended by adding Section 201.711 to read as follows:

Sec. 201.711. FUNDING REPORT. Not later than December 1 of each even-numbered year, the department shall prepare and submit a report to the governor, the lieutenant governor, the speaker of the house of representatives, and the presiding officer of each legislative standing committee with primary jurisdiction over appropriations, transportation, or state finance. The report must include:

(1) a list of viable funding sources for the department based on national and international surveys; and

(2) status updates on the practicality of and the technology available for implementing vehicle mileage fees.

Floor Amendment No. 59

Amend **CSSB 1420** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter A, Chapter 222, Transportation Code, is amended by adding Section 222.005 to read as follows:

Sec. 222.005. USE OF EMERGING FUND MANAGERS FOR INVESTMENTS. (a) To the extent that the department may contract with private professional investment managers to manage or assist in managing the department's assets or otherwise acquire private financial services, the department shall make a good faith effort to award contracts to or acquire services from qualified emerging fund managers.

(b) For purposes of Subsection (a):

(1) "Emerging fund manager" means a private professional investment manager that manages assets of not more than \$5 billion.

(2) "Private financial services" includes pension fund management, consulting, investment advising, brokerage services, hedge fund management, private equity fund management, and real estate investment.

Floor Amendment No. 60

Amend Amendment No. 59 by Alonzo to **CSSB 1420** (page 144 of the prefiled amendments packet) on page 1, line 7 of the amendment, by striking "To" and substituting "At the department's discretion, and to".

Floor Amendment No. 61

Amend **CSSB 1420** by adding the following appropriately numbered new SECTIONS and renumbering subsequent SECTIONS appropriately:

SECTION _____. Section 222.105, Transportation Code, is amended to read as follows:

Sec. 222.105. PURPOSES. The purposes of Sections 222.106 and 222.107 are to:

- (1) promote public safety;
- (2) facilitate the improvement, development, or redevelopment of property;
- (3) facilitate the movement of traffic; and
- (4) enhance a local entity's ability to sponsor a transportation project authorized under Section 222.104.

SECTION _____. Section 222.106, Transportation Code, is amended by amending Subsections (b), (c), (g), (h), (i), (j), (k), and (l) and adding Subsections (i-1) and (i-2) to read as follows:

(b) This section applies only to a municipality in which a transportation project is to be developed [the governing body of which intends to enter into an agreement with the department] under Section 222.104.

(c) If the governing body determines an area to be unproductive and underdeveloped and that action under this section will further the purposes stated in Section 222.105, the governing body of the municipality by ordinance may designate a contiguous geographic area in the jurisdiction of the municipality to be a transportation reinvestment zone to promote a transportation project [described by Section 222.104 that cultivates development or redevelopment of the area].

(g) The ordinance designating an area as a transportation reinvestment zone must:

(1) describe the boundaries of the zone with sufficient definiteness to identify with ordinary and reasonable certainty the territory included in the zone;

(2) provide that the zone takes effect immediately on passage of the ordinance;

(3) assign a name to the zone for identification, with the first zone designated by a municipality designated as "Transportation Reinvestment Zone Number One, (City or Town, as applicable) of (name of municipality)," and subsequently designated zones assigned names in the same form, numbered consecutively in the order of their designation;

(4) designate the base year for purposes of establishing the tax increment base of the municipality;

(5) establish an ad valorem tax increment account for the zone; and

(6) [(5)] contain findings that promotion of the transportation project will cultivate the improvement, development, or redevelopment of the zone.

(h) From taxes collected on property in a zone, the municipality shall pay into the tax increment account for the zone [an amount equal to] the tax increment produced by the municipality, less any amount allocated under previous agreements, including agreements under Chapter 380, Local Government Code, or Chapter 311, Tax Code.

(i) All or the portion specified by the municipality of the money deposited to a tax increment account must be used to fund the transportation project for which the zone was designated, as well as aesthetic improvements within the zone. Any remaining money deposited to the tax increment account may be used for other purposes as determined by the municipality [Money deposited to a tax increment account must be used to fund projects authorized under Section 222.104, including the repayment of amounts owed under an agreement entered into under that section].

(i-1) The governing body of a municipality may contract with a public or private entity to develop, redevelop, or improve a transportation project in a transportation reinvestment zone and may pledge and assign all or a specified amount of money in the tax increment account to that entity. After a pledge or assignment is made, if the entity that received the pledge or assignment has itself pledged or assigned that amount to secure bonds or other obligations issued to obtain funding for the

transportation project, the governing body of the municipality may not rescind its pledge or assignment until the bonds or other obligations secured by the pledge or assignment have been paid or discharged.

(i-2) To accommodate changes in the limits of the project for which a reinvestment zone was designated, the boundaries of a zone may be amended at any time, except that property may not be removed or excluded from a designated zone if any part of the tax increment account has been assigned or pledged directly by the municipality or through another entity to secure bonds or other obligations issued to obtain funding of the project, and property may not be added to a designated zone unless the governing body of the municipality complies with Subsections (e) and (g).

(j) Except as provided by Subsections (i-1) and [Subsection] (k), a transportation reinvestment zone terminates on December 31 of the year in which the municipality completes [complies with] a contractual requirement, if any, that included the pledge or assignment of all or a portion of money deposited to a tax increment account or the repayment of money owed under an [the] agreement for development, redevelopment, or improvement of the project for [under Section 222.104 in connection with] which the zone was designated.

(k) A transportation reinvestment zone terminates on December 31 of the 10th year after the year the zone was designated, if before that date the municipality has not entered into a contract described in Subsection (i-1) or otherwise not used the zone for the purpose for which it was designated.

(l) Any surplus remaining in a tax increment account on termination of a zone may be used for other purposes as determined by [transportation projects of] the municipality [in or outside of the zone].

SECTION _____. The heading to Section 222.107, Transportation Code, is amended to read as follows:

Sec. 222.107. COUNTY TRANSPORTATION REINVESTMENT ZONES[; TAX ABATEMENTS; ROAD UTILITY DISTRICTS].

SECTION _____. Section 222.107, Transportation Code, is amended by amending Subsections (b), (c), (e), (f), (h), (i), (k), and (l) and adding Subsections (h-1) and (k-1) to read as follows:

(b) This section applies only to a county in which a transportation project is to be developed [the commissioners court of which intends to enter into a pass-through toll agreement with the department] under Section 222.104.

(c) The commissioners court of the county, after determining that an area is unproductive and underdeveloped and that action under this section would further the purposes described by Section 222.105, by order or resolution may designate a contiguous geographic area in the jurisdiction of the county to be a transportation reinvestment zone to promote a transportation project [described by Section 222.104 that cultivates development or redevelopment of the area] and for the purpose of abating ad valorem taxes or granting other relief from taxes imposed by the county on real property located in the zone.

(e) Not later than the 30th day before the date the commissioners court proposes to designate an area as a transportation reinvestment zone under this section, the commissioners court must hold a public hearing on the creation of the zone, its benefits to the county and to property in the proposed zone, and the abatement of ad

valorem taxes or the grant of other relief from ad valorem taxes imposed by the county on real property located in the zone. At the hearing an interested person may speak for or against the designation of the zone, its boundaries, or the abatement of or the relief from county taxes on real property in the zone. Not later than the seventh day before the date of the hearing, notice of the hearing and the intent to create a zone must be published in a newspaper having general circulation in the county.

(f) The order or resolution designating an area as a transportation reinvestment zone must:

(1) describe the boundaries of the zone with sufficient definiteness to identify with ordinary and reasonable certainty the territory included in the zone;

(2) provide that the zone takes effect immediately on adoption of the order or resolution; [and]

(3) assign a name to the zone for identification, with the first zone designated by a county designated as "Transportation Reinvestment Zone Number One, County of (name of county)," and subsequently designated zones assigned names in the same form numbered consecutively in the order of their designation; and

(4) designate the base year for purposes of establishing the tax increment base of the county.

(h) The commissioners court by order or resolution may enter into an agreement with the owner of any real property located in the transportation reinvestment zone to abate all or a portion of the ad valorem taxes or to grant other relief from the taxes imposed by the county on the owner's property in an amount not to exceed the amount calculated under Subsection (a)(1) for that year. All abatements or other relief granted by the commissioners court in a transportation reinvestment zone must be equal in rate. In the alternative, the commissioners court by order or resolution may elect to abate a portion of the ad valorem taxes or otherwise grant relief from the taxes imposed by the county on all real property located in the zone. In any ad valorem tax year, the total amount of the taxes abated or the total amount of relief granted under this section may not exceed the amount calculated under Subsection (a)(1) for that year, less any amounts allocated under previous agreements, including agreements under Chapter 381, Local Government Code, or Chapter 312, Tax Code.

(h-1) To further the development of the transportation project for which the transportation reinvestment zone was designated, a county may assess all or part of the cost of the transportation project against property within the zone. The assessment against each property in the zone may be levied and payable in installments in the same manner as provided by Sections 372.016-372.018, Local Government Code, provided that the installments do not exceed the total amount of the tax abatement or other relief granted under Subsection (h). The county may elect to adopt and apply the provisions of Sections 372.015-372.020 and 372.023, Local Government Code, to the assessment of costs and Sections 372.024-372.030, Local Government Code, to the issuance of bonds by the county to pay the cost of a transportation project. The commissioners court of the county may contract with a public or private entity to develop, redevelop, or improve a transportation project in the transportation reinvestment zone, including aesthetic improvements, and may pledge and assign to that entity all or a specified amount of the revenue the county receives from installment payments of the assessments for the payment of the costs of that

transportation project. After a pledge or assignment is made, if the entity that received the pledge or assignment has itself pledged or assigned that amount to secure bonds or other obligations issued to obtain funding for the transportation project, the commissioners court of the county may not rescind its pledge or assignment until the bonds or other obligations secured by the pledge or assignment have been paid or discharged. Any amount received from installment payments of the assessments not pledged or assigned in connection with the transportation project may be used for other purposes associated with the transportation project or in the zone.

(i) In the alternative, to [To] assist the county in developing a transportation project [authorized under Section 222.104], if authorized by the commission under Chapter 441, a road utility district may be formed under that chapter that has the same boundaries as a transportation reinvestment zone created under this section.

(k) A road utility district formed as provided by Subsection (i) may enter into an agreement [with the county to assume the obligation, if any, of the county] to fund development of a project [under Section 222.104] or to repay funds owed to the department [under Section 222.104]. Any amount paid for this purpose is considered to be an operating expense of the district. Any taxes collected by the district that are not paid for this purpose may be used for any district purpose.

(k-1) To accommodate changes in the limits of the project for which a reinvestment zone was designated, the boundaries of a zone may be amended at any time, except that property may not be removed or excluded from a designated zone if any part of the assessment has been assigned or pledged directly by the county or through another entity to secure bonds or other obligations issued to obtain funding of the project, and property may not be added to a designated zone unless the commissioners court of the county complies with Subsections (e) and (f).

(l) Except as provided by Subsection (m), a tax abatement agreement entered into under Subsection (h), or an order or resolution on the abatement of taxes or the grant of relief from taxes under that subsection, terminates on December 31 of the year in which the county completes any contractual requirement that included the pledge or assignment of assessments [of money] collected under this section.

SECTION _____. Subchapter E, Chapter 222, Transportation Code, is amended by adding Sections 222.108 and 222.109 to read as follows:

Sec. 222.108. TRANSPORTATION REINVESTMENT ZONES FOR OTHER TRANSPORTATION PROJECTS. (a) Notwithstanding the requirement in Sections 222.106(b) and 222.107(b) that a transportation reinvestment zone be established in connection with a project under Section 222.104, a municipality or county may establish a transportation reinvestment zone for any transportation project. If all or part of the transportation project is subject to oversight by the department, at the option of the governing body of the municipality or county, the department, to the extent permitted by law, shall delegate full responsibility for the development, design, letting of bids, and construction of the project, including project inspection, to the municipality or county. After assuming responsibility for a project under this subsection, a municipality or county shall enter into an agreement with the department that prescribes:

- (1) the development process;
- (2) the roles and responsibilities of the parties; and

(3) the timelines for any required reviews or approvals.

(b) Any portion of a transportation project developed under Subsection (a) that is on the state highway system or is located in the state highway right-of-way must comply with applicable state and federal requirements and criteria for project development, design, and construction, unless the department grants an exception to the municipality or county.

(c) The development, design, and construction plans and specifications for the portions of a project described by Subsection (b) must be reviewed and approved by the department under the agreement entered into under Subsection (a).

(d) In this section, "transportation project" has the meaning assigned by Section 370.003.

Sec. 222.109. REDUCTION PROHIBITED. (a) A municipality or county may not be penalized with a reduction in traditional transportation funding because of the designation and use of a transportation reinvestment zone under this chapter. Any funding from the department committed to a project before the date that a transportation reinvestment zone is designated may not be reduced because the transportation reinvestment zone is designated in connection with that project.

(b) The department may not reduce any allocation of traditional transportation funding to any of its districts because a district contains a municipality or county that contains a transportation reinvestment zone designated under this chapter.

SECTION _____. Sections 222.106(h), (i), (j), (k), and (l) and 222.107(h), (i), (k), and (l), Transportation Code, as amended by this Act, and Sections 222.106(i-1) and (i-2), 222.107(h-1) and (k-1), 222.108, and 222.109, Transportation Code, as added by this Act, apply to a transportation reinvestment zone that is governed by those sections designated before the effective date of this Act.

Floor Amendment No. 62

Amend Floor Amendment 61 by Pickett (P. 155-164 of the pre-filed amendment packet) to **CSSB 1420** (house committee printing) on page 1, by striking the text beginning on line 4 through 10, line 13 and substitute the following:

SECTION _____. Section 222.105, Transportation Code, is amended to read as follows:

Sec. 222.105. PURPOSES. The purposes of Sections 222.106 and 222.107 are to:

- (1) promote public safety;
- (2) facilitate the improvement, development, or redevelopment of property;
- (3) facilitate the movement of traffic; and
- (4) enhance a local entity's ability to sponsor a transportation project authorized under Section 222.104.

SECTION _____. Section 222.106, Transportation Code, is amended by amending Subsections (b), (c), (g), (h), (i), (j), (k), and (l) and adding Subsections (i-1) and (i-2) to read as follows:

(b) This section applies only to a municipality in which a transportation project is to be developed [~~the governing body of which intends to enter into an agreement with the department~~] under Section 222.104.

(c) If the governing body determines an area to be unproductive and underdeveloped and that action under this section will further the purposes stated in Section 222.105, the governing body of the municipality by ordinance may designate a contiguous geographic area in the jurisdiction of the municipality to be a transportation reinvestment zone to promote a transportation project ~~[described by Section 222.104 that cultivates development or redevelopment of the area].~~

(g) The ordinance designating an area as a transportation reinvestment zone must:

(1) describe the boundaries of the zone with sufficient definiteness to identify with ordinary and reasonable certainty the territory included in the zone;

(2) provide that the zone takes effect immediately on passage of the ordinance;

(3) assign a name to the zone for identification, with the first zone designated by a municipality designated as "Transportation Reinvestment Zone Number One, (City or Town, as applicable) of (name of municipality)," and subsequently designated zones assigned names in the same form, numbered consecutively in the order of their designation;

(4) designate the base year for purposes of establishing the tax increment base of the municipality;

(5) establish an ad valorem tax increment account for the zone; and

(6) ~~(5)~~ contain findings that promotion of the transportation project will cultivate the improvement, development, or redevelopment of the zone.

(h) From taxes collected on property in a zone, the municipality shall pay into the tax increment account for the zone ~~[an amount equal to]~~ the tax increment produced by the municipality, less any amount allocated under previous agreements, including agreements under Chapter 380, Local Government Code, or Chapter 311, Tax Code.

(i) All or the portion specified by the municipality of the money deposited to a tax increment account must be used to fund the transportation project for which the zone was designated, as well as aesthetic improvements within the zone. Any remaining money deposited to the tax increment account may be used for other purposes as determined by the municipality [Money deposited to a tax increment account must be used to fund projects authorized under Section 222.104, including the repayment of amounts owed under an agreement entered into under that section].

(i-1) The governing body of a municipality may contract with a public or private entity to develop, redevelop, or improve a transportation project in a transportation reinvestment zone and may pledge and assign all or a specified amount of money in the tax increment account to that entity. After a pledge or assignment is made, if the entity that received the pledge or assignment has itself pledged or assigned that amount to secure bonds or other obligations issued to obtain funding for the transportation project, the governing body of the municipality may not rescind its pledge or assignment until the bonds or other obligations secured by the pledge or assignment have been paid or discharged.

(i-2) To accommodate changes in the limits of the project for which a reinvestment zone was designated, the boundaries of a zone may be amended at any time, except that property may not be removed or excluded from a designated zone if

any part of the tax increment account has been assigned or pledged directly by the municipality or through another entity to secure bonds or other obligations issued to obtain funding of the project, and property may not be added to a designated zone unless the governing body of the municipality complies with Subsections (e) and (g).

(j) Except as provided by Subsections (i-1) and [Subsection] (k), a transportation reinvestment zone terminates on December 31 of the year in which the municipality completes [complies with] a contractual requirement, if any, that included the pledge or assignment of all or a portion of money deposited to a tax increment account or the repayment of money owed under an [the] agreement for development, redevelopment, or improvement of the project for [under Section 222.104 in connection with] which the zone was designated.

(k) A transportation reinvestment zone terminates on December 31 of the 10th year after the year the zone was designated, if before that date the municipality has not entered into a contract described in Subsection (i-1) or otherwise not used the zone for the purpose for which it was designated.

(l) Any surplus remaining in a tax increment account on termination of a zone may be used for other purposes as determined by [transportation projects of] the municipality [in or outside of the zone].

SECTION _____. The heading to Section 222.107, Transportation Code, is amended to read as follows:

Sec. 222.107. COUNTY TRANSPORTATION REINVESTMENT ZONES[; TAX ABATEMENTS; ROAD UTILITY DISTRICTS].

SECTION 4. Section 222.107, Transportation Code, is amended by amending Subsections (b), (c), (e), (f), (h), (i), (k), and (l) and adding Subsections (h-1) and (k-1) to read as follows:

(b) This section applies only to a county in which a transportation project is to be developed [the commissioners court of which intends to enter into a pass through toll agreement with the department] under Section 222.104.

(c) The commissioners court of the county, after determining that an area is unproductive and underdeveloped and that action under this section would further the purposes described by Section 222.105, by order or resolution may designate a contiguous geographic area in the jurisdiction of the county to be a transportation reinvestment zone to promote a transportation project [described by Section 222.104 that cultivates development or redevelopment of the area] and for the purpose of abating ad valorem taxes or granting other relief from taxes imposed by the county on real property located in the zone.

(e) Not later than the 30th day before the date the commissioners court proposes to designate an area as a transportation reinvestment zone under this section, the commissioners court must hold a public hearing on the creation of the zone, its benefits to the county and to property in the proposed zone, and the abatement of ad valorem taxes or the grant of other relief from ad valorem taxes imposed by the county on real property located in the zone. At the hearing an interested person may speak for or against the designation of the zone, its boundaries, or the abatement of or the relief from county taxes on real property in the zone. Not later than the seventh day before the date of the hearing, notice of the hearing and the intent to create a zone must be published in a newspaper having general circulation in the county.

(f) The order or resolution designating an area as a transportation reinvestment zone must:

(1) describe the boundaries of the zone with sufficient definiteness to identify with ordinary and reasonable certainty the territory included in the zone;

(2) provide that the zone takes effect immediately on adoption of the order or resolution; ~~and~~

(3) assign a name to the zone for identification, with the first zone designated by a county designated as "Transportation Reinvestment Zone Number One, County of (name of county)," and subsequently designated zones assigned names in the same form numbered consecutively in the order of their designation; and

(4) designate the base year for purposes of establishing the tax increment base of the county.

(h) The commissioners court by order or resolution may enter into an agreement with the owner of any real property located in the transportation reinvestment zone to abate all or a portion of the ad valorem taxes or to grant other relief from the taxes imposed by the county on the owner's property in an amount not to exceed the amount calculated under Subsection (a)(1) for that year. All abatements or other relief granted by the commissioners court in a transportation reinvestment zone must be equal in rate. In the alternative, the commissioners court by order or resolution may elect to abate a portion of the ad valorem taxes or otherwise grant relief from the taxes imposed by the county on all real property located in the zone. In any ad valorem tax year, the total amount of the taxes abated or the total amount of relief granted under this section may not exceed the amount calculated under Subsection (a)(1) for that year, less any amounts allocated under previous agreements, including agreements under Chapter 381, Local Government Code, or Chapter 312, Tax Code.

(h-1) To further the development of the transportation project for which the transportation reinvestment zone was designated, a county may assess all or part of the cost of the transportation project against property within the zone. The assessment against each property in the zone may be levied and payable in installments in the same manner as provided by Sections 372.016-372.018, Local Government Code, provided that the installments do not exceed the total amount of the tax abatement or other relief granted under Subsection (h). The county may elect to adopt and apply the provisions of Sections 372.015-372.020 and 372.023, Local Government Code, to the assessment of costs and Sections 372.024-372.030, Local Government Code, to the issuance of bonds by the county to pay the cost of a transportation project. The commissioners court of the county may contract with a public or private entity to develop, redevelop, or improve a transportation project in the transportation reinvestment zone, including aesthetic improvements, and may pledge and assign to that entity all or a specified amount of the revenue the county receives from installment payments of the assessments for the payment of the costs of that transportation project. After a pledge or assignment is made, if the entity that received the pledge or assignment has itself pledged or assigned that amount to secure bonds or other obligations issued to obtain funding for the transportation project, the commissioners court of the county may not rescind its pledge or assignment until the bonds or other obligations secured by the pledge or assignment have been paid or

discharged. Any amount received from installment payments of the assessments not pledged or assigned in connection with the transportation project may be used for other purposes associated with the transportation project or in the zone.

(i) In the alternative, to ~~to~~ assist the county in developing a transportation project ~~[authorized under Section 222.104], if authorized by the commission under Chapter 441, a road utility district may be formed under that chapter that has the same boundaries as a transportation reinvestment zone created under this section.~~

(k) A road utility district formed as provided by Subsection (i) may enter into an agreement ~~[with the county to assume the obligation, if any, of the county]~~ to fund development of a project ~~[under Section 222.104]~~ or to repay funds owed to the department ~~[under Section 222.104]~~. Any amount paid for this purpose is considered to be an operating expense of the district. Any taxes collected by the district that are not paid for this purpose may be used for any district purpose.

(k-1) To accommodate changes in the limits of the project for which a reinvestment zone was designated, the boundaries of a zone may be amended at any time, except that property may not be removed or excluded from a designated zone if any part of the assessment has been assigned or pledged directly by the county or through another entity to secure bonds or other obligations issued to obtain funding of the project, and property may not be added to a designated zone unless the commissioners court of the county complies with Subsections (e) and (f).

(l) Except as provided by Subsection (m), a tax abatement agreement entered into under Subsection (h), or an order or resolution on the abatement of taxes or the grant of relief from taxes under that subsection, terminates on December 31 of the year in which the county completes any contractual requirement that included the pledge or assignment of assessments ~~[of money]~~ collected under this section.

SECTION _____. Subchapter E, Chapter 222, Transportation Code, is amended by adding Sections 222.108 and 222.109 to read as follows:

Sec. 222.108. TRANSPORTATION REINVESTMENT ZONES FOR OTHER TRANSPORTATION PROJECTS. (a) Notwithstanding the requirement in Sections 222.106(b) and 222.107(b) that a transportation reinvestment zone be established in connection with a project under Section 222.104, a municipality or county may establish a transportation reinvestment zone for any transportation project. If all or part of the transportation project is subject to oversight by the department, at the option of the governing body of the municipality or county, the department, to the extent permitted by law, shall delegate full responsibility for the development, design, letting of bids, and construction of the project, including project inspection, to the municipality or county. After assuming responsibility for a project under this subsection, a municipality or county shall enter into an agreement with the department that prescribes:

- (1) the development process;
- (2) the roles and responsibilities of the parties; and
- (3) the timelines for any required reviews or approvals.

(b) Any portion of a transportation project developed under Subsection (a) that is on the state highway system or is located in the state highway right-of-way must comply with applicable state and federal requirements and criteria for project development, design, and construction, unless the department grants an exception to the municipality or county.

(c) The development, design, and construction plans and specifications for the portions of a project described by Subsection (b) must be reviewed and approved by the department under the agreement entered into under Subsection (a).

(d) In this section, "transportation project" has the meaning assigned by Section 370.003.

Sec. 222.109. REDUCTION PROHIBITED. (a) A municipality or county may not be penalized with a reduction in traditional transportation funding because of the designation and use of a transportation reinvestment zone under this chapter. Any funding from the department committed to a project before the date that a transportation reinvestment zone is designated may not be reduced because the transportation reinvestment zone is designated in connection with that project.

(b) The department may not reduce any allocation of traditional transportation funding to any of its districts because a district contains a municipality or county that contains a transportation reinvestment zone designated under this chapter.

SECTION _____. Sections 222.106(h), (i), (j), (k), and (l) and 222.107(h), (i), (k), and (l), Transportation Code, as amended by this Act, and Sections 222.106(i-1) and (i-2), 222.107(h-1) and (k-1), 222.108, and 222.109, Transportation Code, as added by this Act, apply to a transportation reinvestment zone that is governed by those sections designated before the effective date of this Act.

Floor Amendment No. 63

Amend **CSSB 1420** (house committee report) by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. (a) Subchapter E, Chapter 223, Transportation Code, is amended by adding Section 223.210 to read as follows:

Sec. 223.210. APPROVAL AND CERTIFICATION. A comprehensive development agreement entered into by the department or another governmental entity, including a facility agreement under a comprehensive development agreement, under which a private entity will operate a toll project or be entitled to receive revenue from the project must be:

(1) reviewed by the attorney general for legal sufficiency under Section 371.051 and signed by the attorney general, if approved;

(2) reviewed by the comptroller for financial viability and signed and certified by the comptroller, if approved; and

(3) signed by each member of the commission.

(b) Section 223.210, Transportation Code, as added by this section, applies only to a comprehensive development agreement entered into on or after the effective date of this Act.

Floor Amendment No. 64

Amend Amendment No. 63 by Kolkhorst to **CSSB 1420** (page 166 of the prefiled amendments packet) on page 1, line 15, between "comptroller" and "for", by inserting "and the Legislative Budget Board".

Floor Amendment No. 65

Amend **CSSB 1420** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. (a) Section 228.004, Transportation Code, is amended to read as follows:

Sec. 228.004. ~~[PROMOTION OF]~~ TOLL PROJECT INFORMATION. (a) The department may, notwithstanding Chapter 2113, Government Code:

(1) [] engage in marketing, advertising, and other activities to provide information relating to:

(A) the status of pending or ongoing [promote the development and use of] toll projects; or

(B) the use and availability of toll tags or other toll-related resources available to the public; and

(2) [may] enter into contracts or agreements necessary to procure marketing, advertising, or informational [other promotional] services from outside service providers to provide the information described by Subdivision (1).

(b) This section does not authorize the department to engage in marketing, advertising, or other activities for the purpose of influencing public opinion about the use of toll roads or the use of tolls as a financial mechanism or promoting or advocating for the benefits of toll roads.

(b) Section 228.004, Transportation Code, as amended by this section, applies only to a contract or agreement entered into or renewed under Section 228.004, Transportation Code, on or after the effective date of this Act. A contract or agreement entered into or renewed under Section 228.004, Transportation Code, before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

Floor Amendment No. 66

Amend **CSSB 1420** (house committee printing) by inserting the following appropriately-numbered SECTION and renumbering any subsequent SECTIONS accordingly:

SECTION _____. Subchapter Z, Chapter 311, Transportation Code, is amended by adding Section 311.905 to read as follows:

Sec. 311.905. NOTICE OF TRANSPORTATION USER'S FEE BY MUNICIPALITY. (a) A municipality that imposes a fee on the user of a benefited property equal to the prorated annual cost of the transportation system owned by the municipality that can reasonably be attributed to the benefited property must provide notice to the department and the user of the fee.

(b) The notice to the department shall be given to the executive director by any commercially acceptable form of business communication. The notice to the user required under Subsection (a) is adequate if the fee amount is stated on monthly billing statements to the user for metered utility service provided by the municipality to the user.

Floor Amendment No. 67

Amend **CSSB 1420** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. (a) Section 370.305, Transportation Code, is amended by amending Subsections (a) and (b) and adding Subsection (b-1) to read as follows:

~~(a) [An authority may use a comprehensive development agreement with a private entity to construct, maintain, repair, operate, extend, or expand a transportation project.~~

~~[(b)]~~ A comprehensive development agreement is an agreement with a private entity that, at a minimum, provides for the design and construction of a transportation project and may also provide for the financing, acquisition, maintenance, or operation of a transportation project.

(b) Except as provided by Subsection (b-1), an authority may enter into a comprehensive development agreement with a private entity for the design and construction of a transportation project that may also provide for the financing of the project.

(b-1) Unless specifically authorized by the legislature, an authority may not enter into a comprehensive development agreement with a private entity for the design and construction of a transportation project if the comprehensive development agreement entitles the private entity:

(1) to an ownership or leasehold interest in the transportation project; or

(2) to the right to operate or retain revenue from the transportation project.

(b) Sections 370.305(d), (e), and (f), Transportation Code, are repealed.

(c) The changes in law made by Section 370.305, Transportation Code, as amended by this section, apply only to a comprehensive development agreement entered into on or after the effective date of this section. A comprehensive development agreement entered into before the effective date of this section is governed by the law in effect on that date, and that law is continued in effect for that purpose.

Floor Amendment No. 68

Amend Floor Amendment No. 67 by Phillips to **CSSB 1420** (house committee printing) on page 1 by striking lines 4-29 and on page 2 by striking lines 1-7 and substituting the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Sections 370.305, Transportation Code, is amended to read as follows:

~~(a) [An authority may use a comprehensive development agreement with a private entity to construct, maintain, repair, operate, extend, or expand a transportation project.~~

~~[(b)]~~ A comprehensive development agreement is an agreement with a private entity that, at a minimum, provides for the design and construction of a transportation project, that ~~and~~ may ~~also~~ provide for the financing, acquisition, maintenance, or operation of a transportation project, and that entitles the private entity to:

- (1) a leasehold interest in the transportation project; or
- (2) the right to operate or retain revenue from the operation of the transportation project.

~~(b)[(e)]~~ An authority may negotiate provisions relating to professional and consulting services provided in connection with a comprehensive development agreement.

~~(c)[(d)]~~ Except as provided by this chapter ~~Subsections (e) and (f), the authority to enter into comprehensive development agreements under this section expires on August 31, 2009.~~

~~(e)~~ ~~Subsection (d) does not apply to a comprehensive development agreement that does not grant a private entity right to finance a toll project or a comprehensive development agreement in connection with a project:~~

- ~~(1) that includes one or more managed lane facilities to be added to an existing controlled access highway;~~
- ~~(2) the major portion of which is located in a nonattainment or near nonattainment air quality area as designated by the United States Environmental Protection Agency; and~~
- ~~(3) for which the department has issued a request for qualifications before the effective date of this subsection.~~

~~(f)~~ ~~The authority to enter into a comprehensive development agreement for a project exempted from Subsection (d) or Section 223.210(b) expires August 31, 2011.~~

SECTION ____ . Chapter 370, Transportation Code, is amended by adding Subchapter G-1 to read as follows:

SUBCHAPTER G-1. DESIGN-BUILD CONTRACTS

Sec. 370.318. SCOPE OF AND LIMITATIONS ON CONTRACTS. (a) Notwithstanding the requirements of Chapter 2254, Government Code, an authority may use the design-build method for the design, construction, financing, expansion, extension, related capital maintenance, rehabilitation, alteration, or repair of a transportation project.

(b) A design-build contract under this subchapter may not grant to a private entity:

- (1) a leasehold interest in the transportation project; or
- (2) the right to operate or retain revenue from the operation of the transportation project.

(c) In using the design-build method and in entering into a contract for the services of a design-build contractor, the authority and the design-build contractor shall follow the procedures and requirements of this subchapter.

(d) An authority may enter into not more than two design-build contracts for transportation projects in any fiscal year.

Sec. 370.319. DEFINITIONS. In this subchapter:

(1) "Design-build contractor" means a partnership, corporation, or other legal entity or team that includes an engineering firm and a construction contractor qualified to engage in the construction of transportation projects in this state.

(2) "Design-build method" means a project delivery method by which an entity contracts with a single entity to provide both design and construction services for the construction, rehabilitation, alteration, or repair of a facility.

Sec. 370.320. USE OF ENGINEER OR ENGINEERING FIRM. (a) To act as an authority's representative, independent of a design-build contractor, for the procurement process and for the duration of the work on a transportation project, an authority shall select or designate:

(1) an engineer;

(2) a qualified firm, selected in accordance with Section 2254.004, Government Code, who is independent of the design-build contractor; or

(3) a general engineering consultant that was previously selected by an authority and is selected or designated in accordance with Section 2254.004, Government Code.

(b) The selected or designated engineer or firm has full responsibility for complying with Chapter 1001, Occupations Code.

Sec. 370.321. OTHER PROFESSIONAL SERVICES. (a) An authority shall provide or contract for, independently of the design-build firm, the following services as necessary for the acceptance of the transportation project by the authority:

(1) inspection services;

(2) construction materials engineering and testing; and

(3) verification testing services.

(b) An authority shall ensure that the engineering services contracted for under this section are selected based on demonstrated competence and qualifications.

(c) This section does not preclude the design-build contractor from providing construction quality assurance and quality control under a design-build contract.

Sec. 370.322. REQUEST FOR QUALIFICATIONS. (a) For any transportation project to be delivered through the design-build method, an authority must prepare and issue a request for qualifications. A request for qualifications must include:

(1) information regarding the proposed project's location, scope, and limits;

(2) information regarding funding that may be available for the project and a description of the financing to be requested from the design-build contractor, as applicable;

(3) criteria that will be used to evaluate the proposals, which must include a proposer's qualifications, experience, technical competence, and ability to develop the project;

(4) the relative weight to be given to the criteria; and

(5) the deadline by which proposals must be received by the authority.

(b) An authority shall publish notice advertising the issuance of a request for qualifications in the Texas Register and on an Internet website maintained by the authority.

(c) An authority shall evaluate each qualifications statement received in response to a request for qualifications based on the criteria identified in the request. An authority may interview responding proposers. Based on the authority's evaluation of qualifications statements and interviews, if any, an authority shall qualify or short-list proposers to submit detailed proposals.

(d) An authority shall qualify or short-list at least two, but no more than five, firms to submit detailed proposals under Section 370.323. If an authority receives only one responsive proposal to a request for qualifications, the authority shall terminate the procurement.

(e) An authority may withdraw a request for qualifications or request for detailed proposals at any time.

Sec. 370.323. REQUEST FOR DETAILED PROPOSALS. (a) An authority shall issue a request for detailed proposals to proposers short-listed under Section 370.322. A request for detailed proposals must include:

(1) information on the overall project goals;
(2) the authority's cost estimates for the design-build portion of the work;
(3) materials specifications;
(4) special material requirements;
(5) a schematic design approximately 30 percent complete;
(6) known utilities, provided that an authority is not required to undertake an effort to locate utilities;

(7) quality assurance and quality control requirements;
(8) the location of relevant structures;
(9) notice of any rules or goals adopted by the authority pursuant to Section 370.183 relating to awarding contracts to disadvantaged businesses;

(10) available geotechnical or other information related to the project;
(11) the status of any environmental review of the project;
(12) detailed instructions for preparing the technical proposal required under Subsection (c), including a description of the form and level of completeness of drawings expected;

(13) the relative weighting of the technical and cost proposals required under Subsection (c) and the formula by which the proposals will be evaluated and ranked, provided that the formula shall allocate at least 70 percent of the weighting to the cost proposal; and

(14) the criteria and weighting for each element of the technical proposal.

(b) A request for detailed proposals shall also include a general form of the design-build contract that the authority proposes if the terms of the contract may be modified as a result of negotiations prior to contract execution.

(c) Each response to a request for detailed proposals must include a sealed technical proposal and a separate sealed cost proposal.

(d) The technical proposal must address:

(1) the proposer's qualifications and demonstrated technical competence, provided that the proposer shall not be requested to re-submit any information that was submitted and evaluated pursuant to Section 370.322(a)(3);

(2) the feasibility of developing the project as proposed, including identification of anticipated problems;

- (3) the proposed solutions to anticipated problems;
- (4) the ability of the proposer to meet schedules;
- (5) the conceptual engineering design proposed; and
- (6) any other information requested by the authority.

(e) An authority may provide for the submission of alternative technical concepts by a proposer. If an authority provides for the submission of alternative technical concepts, the authority must prescribe a process for notifying a proposer whether the proposer's alternative technical concepts are approved for inclusion in a technical proposal.

(f) The cost proposal must include:

- (1) the cost of delivering the project;
- (2) the estimated number of days required to complete the project; and
- (3) any terms for financing for the project that the proposer plans to provide.

(g) A response to a request for detailed proposals shall be due not later than the 180th day after the final request for detailed proposals is issued by the authority. This subsection does not preclude the release by the authority of a draft request for detailed proposals for purposes of receiving input from short-listed proposers.

(h) An authority shall first open, evaluate, and score each responsive technical proposal submitted on the basis of the criteria described in the request for detailed proposals and assign points on the basis of the weighting specified in the request for detailed proposals. The authority may reject as nonresponsive any proposer that makes a significant change to the composition of its design-build team as initially submitted that was not approved by the authority as provided in the request for detailed proposals. The authority shall subsequently open, evaluate, and score the cost proposals from proposers that submitted a responsive technical proposal and assign points on the basis of the weighting specified in the request for detailed proposals. The authority shall rank the proposers in accordance with the formula provided in the request for detailed proposals.

Sec. 370.324. NEGOTIATION. (a) After ranking the proposers under Section 370.323(h), an authority shall first attempt to negotiate a contract with the highest ranked proposer. If an authority has committed to paying a stipend to unsuccessful proposers in accordance with Section 370.326, an authority may include in the negotiations alternative technical concepts proposed by other proposers.

(b) If an authority is unable to negotiate a satisfactory contract with the highest ranked proposer, the authority shall, formally and in writing, end all negotiations with that proposer and proceed to negotiate with the next proposer in the order of the selection ranking until a contract is reached or negotiations with all ranked proposers end.

Sec. 370.325. ASSUMPTION OF RISKS. (a) Unless otherwise provided in the final request for detailed proposals, including all addenda and supplements thereto, the authority shall assume:

(1) all risks and costs associated with:

(A) scope changes and modifications, as requested by the authority;

(B) unknown or differing site conditions;

(C) environmental clearance and other regulatory permitting for the

project;

(D) natural disasters and other force majeure events; and

(2) all costs associated with property acquisition, excluding costs associated with acquiring a temporary easement or work area associated with staging or construction for the project.

(b) Nothing herein shall prevent the parties from agreeing that the design-build contractor should assume some or all of the risks or costs set forth in subsection (a) provided that such agreement is reflected in the final request for detailed proposals, including all addenda and supplements thereto.

Sec. 370.326. STIPEND AMOUNT FOR UNSUCCESSFUL PROPOSERS. (a) Pursuant to the provisions of the request for detailed proposals, an authority shall pay an unsuccessful proposer that submits a responsive proposal to the request for detailed proposals a stipend for work product contained in the proposal. The stipend must be specified in the initial request for detailed proposals in an amount of at least two tenths of one percent of the contract amount, but may not exceed the value of the work product contained in the proposal to the authority. In the event the authority determines that the value of the work product is less than the stipend amount the authority must provide the proposer with a detailed explanation of the valuation, including the methodology and assumptions used in determining value. After payment of the stipend, the authority may make use of any work product contained in the unsuccessful proposal, including the techniques, methods, processes, and information contained in the proposal. The use by the authority of any design element contained in an unsuccessful proposal is at the sole risk and discretion of the authority and does not confer liability on the recipient of the stipend under this subsection.

(b) An authority may provide in a request for detailed proposals for the payment of a partial stipend in the event a procurement is terminated prior to securing project financing and execution of a design-build contract.

Sec. 370.327. PERFORMANCE OR PAYMENT BOND. (a) Notwithstanding the requirements of Subchapter B, Chapter 2253, Government Code, an authority shall require a design-build contractor to provide a performance and payment bond or an alternative form of security or a combination of forms of security.

(b) A performance and payment bond or alternative form of security shall be in an amount equal to the cost of constructing or maintaining the project.

(c) A payment or performance bond is not required for the portion of a design-build contract under this section that includes design services only.

(d) In addition to performance and payment bonds, an authority may require the following alternative forms of security:

(1) a cashier's check drawn on a financial entity specified by the authority;

(2) a United States bond or note;

(3) an irrevocable bank letter of credit drawn from a National or Texas chartered bank; or

(4) any other form of security determined suitable by the authority.

SECTION _____. Section 370.314, Transportation Code, is repealed.

Floor Amendment No. 71

Amend **CSSB 1420** as follows:

SECTION 6.04, Subchapter D, Chapter 391, Section 391.099, Transportation Code, is amended to read as follows:

(c) Except as provided by Subsection (f), the commission shall:

(1) regulate the content, composition, design, placement, erection, and maintenance of tourist-oriented directional signs and supports on eligible highway rights-of-way and ensure signs are placed in designated areas no more than 90 days after the eligible facility signs a contract;

(2) in lieu of a tourist-oriented directional sign, direct the department to erect General Service signs upon request of owners of recreational vehicle or camping areas;

(3) create rules as to the viable alternatives to the current tourist-oriented directional sign program pricing methodology of total traffic counts to include, but not limited to, actual visitor counts or cost plus maintenance fees of the sign; and,

(4) adopts rules necessary to administer and enforce this section.

Floor Amendment No. 72

Amend **CSSB 1420** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. (a) The heading to Section 545.157, Transportation Code, is amended to read as follows:

Sec. 545.157. PASSING AUTHORIZED EMERGENCY VEHICLE OR DEPARTMENT VEHICLE.

(b) Section 545.157, Transportation Code, is amended by amending Subsections (a) and (b) and adding Subsection (d) to read as follows:

(a) On approaching a stationary authorized emergency vehicle using visual signals that meet the requirements of Sections 547.305 and 547.702 or a department vehicle that is using visual signals described by Section 547.305 and is not separated from the roadway by a traffic control channelizing device, an operator, unless otherwise directed by a police officer, shall:

(1) vacate the lane closest to the emergency vehicle or department vehicle when driving on a highway with two or more lanes traveling in the direction of the emergency vehicle or department vehicle; or

(2) slow to a speed not to exceed:

(A) 20 miles per hour less than the posted speed limit when the posted speed limit is 25 miles per hour or more; or

(B) five miles per hour when the posted speed limit is less than 25 miles per hour.

(b) A violation of this section is:

(1) a misdemeanor punishable under Section 542.401;

(2) a misdemeanor punishable by a fine of \$500 if the violation results in property damage; ~~or~~

(3) a Class B misdemeanor if the violation results in bodily injury; or

(4) a felony of the third degree if the violation results in serious bodily injury or death.

(d) In this section:

(1) "Department vehicle" means a vehicle owned or operated by the Texas Department of Transportation.

(2) "Traffic control channelizing device" means equipment used to warn and alert an operator of conditions created by work activities in or near the traveled part of a highway, to protect workers in a temporary traffic control zone, or to safely guide operators and pedestrians. The term includes a traffic cone, tubular marker, vertical panel, drum, barricade, temporary raised island, concrete or cable barrier, or guardrail.

(c) The changes in law made by Section 545.157, Transportation Code, as amended by this section, apply only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this subsection, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

Floor Amendment No. 73

Amend Amendment No. 72 by Martinez to **CSSB 1420** (page 194, prefiled floor amendment packet) as follows:

(1) On page 1, line 6, between "VEHICLE" and "OR" insert ", TOW TRUCK,".

(2) On page 1, line 13, between "547.702" and "or", insert ", a stationary tow truck using equipment authorized by Section 347.305(d),".

(3) On page 1, line 18, immediately before "or department" insert ", tow truck,".

(4) On page 1, line 19, between "vehicle" and "or" insert ", tow truck,".

(5) On page 2, between lines 7 and 8, insert the following:

(2) "Tow truck" means a vehicle that:

(A) has been issued a permit under Subchapter C, Chapter 2308, Occupations Code; and

(B) is operated by a person licensed under Subchapter D, Chapter 2308, Occupations Code.

(6) On page 2, line 8, strike "(2)" and substitute "(3)".

Floor Amendment No. 74

Amend **CSSB 1420** (house committee printing) by adding the following SECTION to the bill, appropriately numbered, and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Chapter 707, Transportation Code, is amended by adding Section 707.0035 to read as follows:

Sec. 707.0035. DEPARTMENT APPROVAL. (a) A local authority may not install a photographic traffic signal enforcement system at an intersection approach located on a state highway under the jurisdiction of the Texas Department of Transportation unless the department, after notice and a public hearing, approves the installation of the system.

(b) The department may not approve the installation of a photographic traffic signal enforcement system under Subsection (a) in a municipality with a population of less than 40,000.

Floor Amendment No. 75

Amend **CSSB 1420** by adding the appropriately numbered section to read as follows:

SECTION _____. PRESIDIO INTERNATIONAL BRIDGE. Upon verification that the County of Presidio and the City of Presidio have obtained the appropriate financing, the Department shall sell and convey the Presidio International Bridge to the City and County of Presidio at cost. Such sale shall be expeditiously handled in accordance with applicable state and federal laws. The Department may maintain up to a 10% minority share of ownership so long as such ownership does not preclude the City and County from charging a toll for use of the bridge by passenger, commercial, pedestrian or other traffic.

Floor Amendment No. 76

Amend **CSSB 1420** by adding the appropriately numbered section to read as follows:

SECTION _____. REPRESENTATIVE RICHARD C. SLACK BRIDGE.
(a) The Presidio International Bridge is designated as the Representative Richard C. Slack Bridge.

(b) The department shall erect markers indicating the designation of the bridge as the Representative Richard C. Slack Bridge, and any other appropriate information at appropriate locations on or along the bridge.

(c) Section 225.021(c) does not apply to this section.

Floor Amendment No. 77

Amend Amendment No. 76 by Gallego to **CSSB 1420** (page 199 of the prefiled amendments packet) by adding the following at the end of the amendment:

(d) Notwithstanding Subsection (b), the department is not required to design or erect a marker under this section unless a grant or donation of private funds is made to the department to cover the cost of designing and erecting the marker.

Floor Amendment No. 78

Amend **CSSB 1420** by adding the appropriately numbered section to read as follows:

SECTION _____. Hilary B. Doran Jr. Building. The Texas Department of Transportation Building located in Val Verde County shall be known as the Hilary B. Doran Building.

Floor Amendment No. 80

Amend **CSSB 1420** (house committee printing) as follows:

- (1) On page 22, line 20, between "bridges" and ",", insert "and overpasses".
- (2) On page 22, line 23, strike "and".
- (3) On page 22, line 24, after "scores;" insert "and".
- (4) On page 22, between lines 24 and 25, insert the following:

(C) the height of guardrails on bridges and overpasses and information about the number of accidents, injuries, and fatalities resulting from guardrail failure.

Floor Amendment No. 81

Amend Floor Amendment No. 80 by Castro to **CSSB 1420** (amendment packet, page 89) on page 1 by striking lines 1-10, and substituting the following:

Amend **CSSB 1420** (house committee printing) by adding the following appropriately numbered SECTION to the bill, and renumber subsequent SECTIONS accordingly:

SECTION _____. The Texas Department of Transportation shall conduct a study of best practices for retrofitting rail on bridges and overpasses that includes information about the number of accidents, injuries, and fatalities resulting from rail failure, and shall submit the study to the Legislature by September 30, 2012.

Floor Amendment No. 83

Amend **CSSB 1420** (house committee report) by striking page 10, line 9, through page 12, line 6 and substituting the following:

Sec. 201.451. DEFINITIONS. In this subchapter:

(1) "Fraud" has the meaning assigned by Section 531.1011, Government Code.

(2) "Inspector general" means the person appointed under this subchapter to serve as inspector general for the department.

(3) "Office" means the office of inspector general for the department.

(4) "Review" includes an inspection, investigation, audit, or similar activity.

(5) "State funds" or "state money" includes federal funds or money received and appropriated by the state or for which the state has oversight responsibility.

Sec. 201.452. ESTABLISHMENT OF OFFICE. (a) The department shall establish an office of inspector general.

(b) The office is governed by the inspector general for the department.

(c) The inspector general shall:

(1) manage daily operations of the office;

(2) supervise office staff;

(3) create office operating procedures, personnel policies, and employment policies;

(4) allocate resources in the office;

(5) oversee office information resources systems;

(6) determine the location of office facilities; and

(7) coordinate office activities with the activities of other state agencies.

(d) The inspector general is responsible for office procurement and contracts.

Sec. 201.453. INDEPENDENCE OF OFFICE. Except as otherwise provided by this subchapter, the office and inspector general operate independently of the department.

Sec. 201.454. ADMINISTRATIVE ATTACHMENT. The office is administratively attached to the department. The department shall provide to the office administrative support services.

Sec. 201.455. SERVICE LEVEL AGREEMENT. (a) The department and the office shall enter into a service level agreement that establishes the performance standards and deliverables with regard to administrative support by the department.

(b) The service level agreement must be reviewed at least annually to ensure that services and deliverables are provided in accordance with the agreement.

Sec. 201.456. APPROPRIATIONS AND BUDGET. (a) The inspector general shall submit a budget for the office in accordance with the reporting requirements of the General Appropriations Act.

(b) The inspector general shall submit to the Legislative Budget Board and the department a legislative appropriations request and an operating budget in accordance with the service level agreement entered into under Section 201.455 and applicable law.

(c) If required by or under law, the department shall submit the operating budget to the legislature. The budget is not subject to review, alteration, or modification by the department or the commission before submission to the legislature.

Sec. 201.457. DUTIES OF DEPARTMENT. (a) The department shall:

(1) provide administrative assistance to the office; and

(2) coordinate administrative responsibilities with the office to avoid unnecessary duplication of duties.

(b) The department may not take an action that affects or relates to the validity, status, or terms of an interagency agreement or a contract to which the office is a party without the office's approval.

Sec. 201.458. APPOINTMENT; STATE OFFICER. (a) The commission shall appoint an inspector general to serve as director of the office.

(b) The appointment shall be made without regard to political affiliation, race, color, disability, sex, religion, age, or national origin.

(c) In making the appointment, the commission shall consider the person's integrity, education, training, knowledge of law, experience in the enforcement of law, executive ability, capability for strong leadership, and demonstrated ability in accounting, auditing, financial analysis, management analysis, public administration, investigation, criminal justice administration, or other closely related fields.

(d) The inspector general is a state officer.

Sec. 201.459. TERM. The inspector general serves a two-year term that expires on February 1 of each odd-numbered year.

Sec. 201.460. ELIGIBILITY. (a) To be eligible for appointment as inspector general, a person must:

(1) have unquestioned integrity and moral character;

(2) hold a bachelor's degree;

(3) have either:

(A) at least five years of experience as a certified public accountant, certified internal auditor, or certified inspector general; or

(B) a peace officer certification issued by the Commission on Law Enforcement Officer Standards and Education that the person has held for at least five years; and

(4) have either:

(A) at least five years of experience in a professional or administrative position that included as a major duty fiscal management, the review of fiscal management, or the auditing or review of operational efficiency or program performance; or

(B) experience carrying out law enforcement duties to prevent fraud, waste, and abuse.

(b) The person appointed as inspector general must obtain certification as a certified inspector general within the time required by rules adopted by the commission.

(c) A person formerly employed by the department as an executive or manager may not serve as inspector general before the fifth anniversary of the date of the termination of that person's employment with the department.

(d) A person is not eligible for appointment as inspector general if the person or the person's spouse:

(1) is an officer or paid consultant of a business entity or other organization that holds a license, certificate of authority, or other authorization from the department or that receives funds from the department;

(2) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization receiving funds from the department; or

(3) uses or receives a substantial amount of tangible goods or funds from the department, other than compensation or reimbursement authorized by law.

(e) A person is not eligible to serve as inspector general if the person or the person's spouse is required to register as a lobbyist under Chapter 305, Government Code, because of the person's or spouse's activities for compensation related to the operation of the department.

Sec. 201.461. CONFLICT OF INTEREST. (a) The inspector general may not serve as an ex officio member on the governing body of a governmental entity.

(b) The inspector general may not have a financial interest in the transactions of the office, the department, or a contractor with the department or office.

(c) The inspector general and office staff may not participate in partisan political activities related to the work of the inspector general's office. The inspector general may select the most efficient personnel available for each position in the inspector general's office. It is against the public policy of this state for an officer or employee of this state to recommend a person to serve on the staff of the inspector general.

Sec. 201.462. PEACE OFFICERS. (a) The office may employ and commission peace officers to assist the inspector general in carrying out the duties of the office relating to detection, investigation, and prevention of fraud, waste, and abuse in department programs or in programs receiving state or federal funds that are implemented, administered, or overseen by or for the department.

(b) A commissioned peace officer or otherwise designated law enforcement officer employed by the office is not entitled to supplemental benefits from the law enforcement and custodial officer supplemental retirement fund unless the officer transfers from a position, without a break in service, that qualifies for supplemental retirement benefits from the fund.

Sec. 201.463. EXPERTS. Subject to the availability of funds, the inspector general may contract with certified public accountants, qualified management consultants, or other professional experts as necessary to independently perform the functions of the office.

Sec. 201.464. EMPLOYEES; TRAINING. (a) The inspector general may employ personnel as necessary to implement the duties of the office.

(b) The inspector general shall train office personnel to pursue, efficiently and as necessary, fraud, waste, and abuse cases in department programs or other state or federally funded programs implemented, administered, or overseen by or for the department.

Sec. 201.465. ASSISTANCE BY DEPARTMENT EMPLOYEES. The inspector general may require employees of the department to provide assistance to the office in connection with the office's duties relating to conducting reviews of fraud, waste, and abuse in the provision of services for department programs or state or federally funded programs implemented, administered, or overseen by or for the department.

Sec. 201.466. GENERAL RESPONSIBILITIES. The office is responsible for:

(1) conducting reviews of fraud, waste, and abuse in the provision or funding of services by or for the department or under a program implemented, administered, or overseen by or for the department;

(2) the enforcement of state law and the protection of the public relating to the provision of those services; and

(3) the prevention and detection of crime relating to the provision of those services.

Sec. 201.467. RULEMAKING BY INSPECTOR GENERAL. (a) Notwithstanding Section 201.101 and any other law, the inspector general shall adopt the rules necessary to administer the functions of the office, including rules to address the imposition of sanctions and penalties for violations and due process requirements for imposing sanctions and penalties.

(b) A rule, standard, or form of the department that is necessary to accomplish the duties of the office is considered to also be a rule, standard, or form of the office and remains in effect as a rule, standard, or form of the office until changed by the inspector general.

(c) The office shall submit proposed rules and adopted rules to the department for publication. The department shall promptly provide for the publication of the proposed or adopted rules in accordance with law. The department, including the commission, may not amend or modify a rule submitted by the office.

(d) The rules must include standards for the office that emphasize:

(1) coordinating reviews and investigative efforts to aggressively recover money;

(2) allocating resources to cases that have the strongest supportive evidence and the greatest potential for recovery of money; and

(3) maximizing opportunities for referral of cases to the office of attorney general.

Sec. 201.468. PUBLIC INTEREST INFORMATION AND COMPLAINTS.

(a) The office shall develop and implement policies that provide the public a reasonable opportunity to appear before the office and to speak on any issue under the office's jurisdiction.

(b) The office shall prepare information of public interest describing the functions of the office and the office's procedures by which complaints are filed with and resolved by the office. The office shall make the information available to the public and appropriate state agencies.

(c) The office shall keep an information file about each complaint filed with the office relating to the department or an entity receiving state or federal money and falling under the investigatory jurisdiction of the office.

Sec. 201.469. REVIEW, INVESTIGATION, AND AUDIT AUTHORITY. (a) The inspector general may review any activity or operation of the department or a person in this state that is related to the investigation, detection, or prevention of fraud, waste, abuse, or employee misconduct in a department program or state or federally funded program implemented, administered, or overseen by or for the department. A review may include an investigation or other inquiry into a specific act or allegation of, or a specific financial transaction or practice that may involve, impropriety, malfeasance, or nonfeasance in the obligation, spending, receipt, or other use of state or federal money.

(b) The office shall conduct reviews to protect the public and detect and prevent fraud, waste, and abuse in the provision or funding of services or programs.

(c) The office shall conduct internal affairs investigations in instances of suspected fraud, waste, and abuse and in instances of suspected misconduct by employees, contractors, subcontractors, and vendors.

(d) The department or the commission may not impair or prohibit the inspector general from initiating or completing a review, or attempt to influence the inspector general in conducting a review.

(e) The inspector general may review the use and effectiveness of state or federal funds, including contract and grant funds, administered by a person receiving the funds in connection with a department or state or federally funded program implemented, administered, or overseen by or for the department.

Sec. 201.470. INITIATION OF REVIEW. The inspector general may initiate a review:

(1) on the inspector general's own initiative;

(2) at the request of the department or the commission; or

(3) based on a complaint from any source concerning a matter described by

Section 201.469.

Sec. 201.471. ACCESS TO INFORMATION. To further a review conducted by the office, the inspector general is entitled to access all books, records, accounts, documents, reports, vouchers, databases, systems, or other information, including confidential information, electronic data, and internal records relevant to the functions of the office that are maintained by or for a person or the department in connection with a department or a state or federally funded program implemented, administered, or overseen by or for the department.

Sec. 201.472. COOPERATION REQUIRED. To further a review conducted by the inspector general's office, the inspector general is entitled to full and unrestricted access to all offices, limited access or restricted areas, employees, equipment, and computers, including areas, equipment, and computers that contain confidential information and internal records, relevant to the functions of the office that are maintained by or for a person or the department in connection with a department or a state or federally funded program implemented, administered, or overseen by or for the department.

Sec. 201.473. SUBPOENAS. (a) The inspector general may issue a subpoena to compel the attendance of a relevant witness or the production, for inspection or copying, of relevant evidence in connection with a review conducted under this subchapter.

(b) A subpoena may be served personally or by certified mail.

(c) If a person fails to comply with a subpoena, the inspector general, acting through the attorney general, may file suit to enforce the subpoena in a district court in this state.

(d) On finding that good cause exists for issuing the subpoena, the court shall order the person to comply with the subpoena. The court may hold in contempt a person who fails to obey the court order.

(e) The reimbursement of the expenses of a witness whose attendance is compelled under this section is governed by Section 2001.103, Government Code.

Sec. 201.474. INTERNAL AUDITOR. (a) In this section, "internal auditor" means a person appointed under Section 201.108.

(b) The internal auditor shall provide the inspector general with a copy of the department's internal audit plan to:

(1) assist in the coordination of efforts between the inspector general and the internal auditor; and

(2) limit duplication of effort regarding reviews by the inspector general and internal auditor.

(c) The internal auditor shall provide to the inspector general all final audit reports concerning audits of any:

(1) division of the department;

(2) contract, procurement, or grant; and

(3) program conducted by the department.

Sec. 201.475. COOPERATION WITH LAW ENFORCEMENT OFFICIALS AND OTHER ENTITIES. (a) The inspector general may provide information and evidence relating to criminal acts to the state auditor's office and appropriate law enforcement officials.

(b) The inspector general may refer matters for further civil, criminal, and administrative action to appropriate administrative and prosecutorial agencies, including the attorney general.

(c) The inspector general may enter into a memorandum of understanding with a law enforcement or prosecutorial agency, including the office of the attorney general, to assist in conducting a review under this subchapter.

Sec. 201.476. COOPERATION AND COORDINATION WITH STATE AUDITOR. (a) The state auditor may, on request of the inspector general, provide appropriate information or other assistance to the inspector general or office, as determined by the state auditor.

(b) The inspector general may meet with the state auditor's office to coordinate a review conducted under this subchapter, share information, or schedule work plans.

(c) The state auditor is entitled to access all information maintained by the inspector general, including vouchers, electronic data, internal records, and information obtained under Section 201.471 or subject to Section 201.482.

(d) Any information obtained or provided by the state auditor under this section is confidential and not subject to disclosure under Chapter 552, Government Code.

Sec. 201.477. AUTHORITY OF STATE AUDITOR AND SUNSET ADVISORY COMMISSION NOT IMPAIRED. (a) This subchapter does not take precedence over the authority of the state auditor to conduct an audit under Chapter 321, Government Code, or other law.

(b) This subchapter does not take precedence over the authority of the Sunset Advisory Commission or other legislative bodies to review the department under other law.

Sec. 201.478. PREVENTION. (a) The inspector general may recommend to the department policies on:

(1) promoting economical and efficient administration of state or federal funds administered by an individual or entity that received the funds from the department; and

(2) preventing and detecting fraud, waste, and abuse in the administration of those funds.

(b) The inspector general may provide training or other education regarding the prevention of fraud, waste, or abuse to employees of the department. The training or education provided must be approved by the commission.

Sec. 201.479. PERIODIC REPORTING TO STATE AUDITOR AND COMMISSION REQUIRED. The inspector general shall timely inform the state auditor and the commission of the initiation of a review of a department program and the ongoing status of each review.

Sec. 201.480. REPORTING OFFICE FINDINGS. The inspector general shall report the findings of the office for any review conducted under this subchapter to:

(1) the commission;

(2) the governor;

(3) the lieutenant governor;

(4) the speaker of the house of representatives;

(5) the state auditor's office; and

(6) appropriate law enforcement and prosecutorial agencies, including the office of the attorney general, if the findings suggest the probability of criminal conduct.

Sec. 201.481. FLAGRANT VIOLATIONS; IMMEDIATE REPORT. The inspector general shall immediately report to the commission, the governor's general counsel, and the state auditor a problem that the inspector general determines is particularly serious or flagrant and that relates to the administration of a program, operation of the department, or interference with an inspector general review.

Sec. 201.482. INFORMATION CONFIDENTIAL. (a) Except as provided by this section and Sections 201.479, 201.480, 201.483, and 201.484, all information and material compiled or maintained by the inspector general during a review under this subchapter is:

(1) confidential and not subject to disclosure under Chapter 552, Government Code; and

(2) not subject to disclosure, discovery, subpoena, or other means of legal compulsion for release to anyone other than the state auditor's office, the department, or the office or its agents involved in the review related to that information or material.

(b) As the inspector general determines appropriate based on evidence sufficient to support an allegation, information relating to a review may be disclosed to:

- (1) a law enforcement agency;
- (2) a district or county attorney with jurisdiction;
- (3) the attorney general's office;
- (4) the state auditor's office; or
- (5) the department.

(c) A person that receives information under Subsection (b) may not disclose the information except to the extent that disclosure is consistent with the authorized purpose for which the person first obtained the information.

Sec. 201.483. DRAFT OF FINAL REVIEW REPORT; DEPARTMENT RESPONSE. (a) Except in cases in which the office has determined that fraud, waste, or abuse exists, the office shall provide a draft of the final review report of any review of the operations of the department to the director before publishing the office's final review report.

(b) The director may provide a response to the office's draft report in the manner prescribed by the office not later than the 10th day after the date the draft report is received by the director. The inspector general by rule shall specify the format and requirements of the department response.

(c) Notwithstanding Subsection (a), the office may not provide a draft report to the director if in the inspector general's opinion providing the draft report could negatively affect any anticipated civil or criminal proceedings.

(d) The office may include any portion of the department's response in the office's final report.

Sec. 201.484. FINAL REVIEW REPORTS; DEPARTMENT RESPONSE. (a) The inspector general shall prepare a final report for each review conducted under this subchapter. The final report must include:

(1) a summary of the activities performed by the inspector general in conducting the review;
(2) a determination of whether wrongdoing or substantial waste was found;
and

(3) a description of any findings of wrongdoing or substantial waste or, if no wrongdoing or substantial waste was found, a statement indicating that finding.

(b) The inspector general's final review reports are subject to disclosure under Chapter 552, Government Code.

(c) All working papers and other documents related to compiling the final review reports remain confidential and are not subject to disclosure under Chapter 552, Government Code.

(d) Not later than the 60th day after the date the office issues a final report that identifies deficiencies or inefficiencies in, or recommends corrective measures in the operations of, the department, the department shall file a response that includes:

(1) an implementation plan and timeline for implementing corrective measures; or

(2) the department's rationale for declining to implement corrective measures for the identified deficiencies or inefficiencies or the office's recommended corrective measures, as applicable.

(e) Unless otherwise prohibited by this subchapter, the inspector general shall deliver a copy of each final report to:

(1) the director;

(2) the commission;

(3) the governor;

(4) the lieutenant governor;

(5) the speaker of the house of representatives;

(6) any appropriate law enforcement and prosecutorial agencies; and

(7) the state auditor.

Sec. 201.485. COSTS. (a) The inspector general shall maintain information regarding the cost of reviews.

(b) The inspector general may cooperate with appropriate administrative and prosecutorial agencies, including the office of the attorney general, in recovering costs incurred under this subchapter from nongovernmental entities, including contractors or individuals involved in:

(1) violations of applicable state or federal rules or statutes;

(2) abusive or wilful misconduct; or

(3) violations of a contract or program policy.

(c) In a criminal prosecution to which this subchapter applies, the attorney representing the state shall request that the court require restitution as a condition of a convicted person's community supervision or parole.

Sec. 201.486. ADMINISTRATIVE OR CIVIL PENALTY; INJUNCTION. (a) The office may:

(1) act for the department in the assessment by the office of administrative or civil penalties the department is authorized to assess under applicable law; and

(2) request that the attorney general obtain an injunction to prevent a person from disposing of an asset identified by the office as potentially subject to recovery by the office due to the person's fraud, waste, or abuse.

(b) If the office imposes an administrative or civil penalty under Subsection (a) for the department:

(1) the department may not impose an administrative or civil penalty against the same person for the same violation; and

(2) the office shall impose the penalty under applicable rules of the office, this subchapter, applicable laws governing the imposition of a penalty by the department, and any other applicable law.

Floor Amendment No. 84

Amend Amendment No. 83 by Harper-Brown to **CSSB 1420** (page 6, prefiled amendments packet) as follows:

(1) On page 10 of the amendment, line 27, strike "may" and substitute "shall".

(2) On page 10 of the amendment, line 30, strike "may" and substitute "shall".

Floor Amendment No. 85

Amend Amendment No. 83 by Harper-Brown to **CSSB 1420** (page 6, prefiled amendments packet) as follows:

- (1) Strike page 2, lines 17-29.
- (2) Renumber subsequent added sections of the Transportation Code in the amendment, as applicable.

Floor Amendment No. 86

Amend **CSSB 1420** (house committee printing) by striking page 32, line 24, through page 33, line 17, and substituting:

Sec. 223.002. NOTICE OF BIDS ~~[BY PUBLICATION]~~. (a) The department shall give [publish] notice to interested persons regarding [of] the time and place at which bids on a contract will be opened and the contract awarded. Subject to Subsections (b) and (c), the commission by rule shall determine the most effective method for providing the notice required by this section.

(b) The notice must be published in a newspaper published in the county in which the improvement is to be made and, at a minimum, must provide the address of an Internet website on which information regarding bids may be located [once a week for at least two weeks before the time set for awarding the contract and in two other newspapers that the department may designate].

(c) ~~[Instead of the notice required by Subsection (b), if the department estimates that the contract involves an amount less than \$300,000, notice may be published in two successive issues of a newspaper published in the county in which the improvement is to be made.~~

~~(d)~~ If a newspaper is not published in the county in which the improvement is to be made, notice shall be published in a newspaper published in the county:

- (1) nearest the county seat of the county in which the improvement is to be made; and
- (2) in which a newspaper is published.

Floor Amendment No. 87

Amend Amendment No. 86 by Harper-Brown to **CSSB 1420** (page 23 of the prefiled amendments packet) on page 1, line 5, by striking "to interested persons".

Floor Amendment No. 89

Amend Amendment No. 49 by Smithee (page 141 of the prefiled amendment packet) to **CSSB 1420** as follows:

(1) Strike page 1, line 2, and substitute the following:
the following appropriately numbered SECTIONS to the bill and

(2) On page 1, line 5, strike "Section 201.2002" and substitute "Sections 201.2002 and 201.2003".

(3) At the end of the amendment, add the following:

Sec. 201.2003. EDMUND P. KUEMPEL REST AREAS. (a) The eastbound and westbound rest areas located on Interstate Highway 10 in Guadalupe County are designated as the Edmund P. Kuempel Rest Areas.

(b) The department shall design and construct markers at each rest area described by Subsection (a) indicating the designation of those rest areas as the Edmund P. Kuempel Rest Areas and any other appropriate information.

(c) The department shall erect markers at appropriate locations at the rest areas.

(d) Notwithstanding Subsections (b) and (c), the department is not required to design, construct, or erect a marker under this section unless a grant or donation of private funds is made to the department to cover the cost of the design, construction, and erection of the marker.

(e) Money received under Subsection (d) shall be deposited to the credit of the state highway fund.

Floor Amendment No. 90

Amend **CSSB 1420** (house committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 223.201, Transportation Code, is amended by amending Subsections (f) and (i) and adding Subsections (j), (k), (l), (m), (n), (o), (p), and (q) to read as follows:

(f) The department may ~~[Except as provided by Subsections (h) and (i), the authority to]~~ enter into a comprehensive development agreement only for all or part of:

(1) the State Highway 99 (Grand Parkway) project;

(2) the Interstate Highway 35E managed lanes project in Dallas and Denton Counties from Interstate Highway 635 to U.S. Highway 380;

(3) the North Tarrant Express project in Tarrant and Dallas Counties, including:

(A) on State Highway 183 from State Highway 121 to State Highway 161 (Segment 2E);

(B) on Interstate Highway 35W from Interstate Highway 30 to State Highway 114 (Segments 3A, 3B, and 3C); and

(C) on Interstate Highway 820 from State Highway 183 North to south of Randol Mill Road (Segment 4);

(4) the State Highway 183 managed lanes project in Dallas County from State Highway 161 to Interstate Highway 35E; and

(5) the State Highway 249 project in Harris and Montgomery Counties from Spring Cypress Road to Farm-to-Market Road 1774 ~~[agreements provided by this section expires on August 31, 2009].~~

(i) The authority to enter into a comprehensive development agreement for a project described by Subsection (f), other than the State Highway 99 (Grand Parkway) project, or a project described by Section 91.054 ~~[exempted from Subsection (f) or Section 223.210(b)]~~ expires August 31, 2015 ~~[2011].~~

(j) Before the department may enter into a comprehensive development agreement under Subsection (f), the department must:

(1) obtain the appropriate environmental clearance not later than September 1, 2012, for any project other than the State Highway 99 (Grand Parkway) project;

(2) present to the commission a full financial plan for the project, including costing methodology and cost proposals; and

(3) pay the full cost of procuring the agreement.

(k) A comprehensive development agreement for the North Tarrant Express project may be comprised of a combination of agreements with one or more private entities.

(l) A comprehensive development agreement for the North Tarrant Express project may provide for negotiating and entering into facility agreements for future phases or segments of the project at the times that the department considers advantageous to the department.

(m) The department is not required to use any further competitive procurement process to enter into one or more related facility agreements with the successful proposer or affiliates of the successful proposer for a comprehensive development agreement for the North Tarrant Express project.

(n) The department may include or negotiate any matter in a comprehensive development agreement for the North Tarrant Express project that the department considers advantageous to the department.

(o) A comprehensive development agreement for the North Tarrant Express project may provide the private participant with a right of first negotiation under which the private participant or its affiliates may elect to negotiate with the department and enter into one or more related facility agreements for future phases or segments of the project without the need to participate in any further competitive procurement process.

(p) The department has exclusive judgment to determine the terms of a comprehensive development agreement for the North Tarrant Express project, including the matters to be negotiated following selection of the private participant and the timing of negotiations.

(q) The department may not develop a project under this section as a project under Chapter 227.

SECTION _____. Subchapter E, Chapter 223, Transportation Code, is amended by adding Section 223.2011 to read as follows:

Sec. 223.2011. LIMITED AUTHORITY FOR CERTAIN PROJECTS USING COMPREHENSIVE DEVELOPMENT AGREEMENTS. (a) Notwithstanding Section 223.201(f) and Sections 370.305(d) and (f), the department or an authority under Section 370.003 may enter into a comprehensive development agreement relating to improvements to, or construction of:

(1) the Loop 1 (MoPac Improvement) project from Farm-to-Market Road 734 to Cesar Chavez Street;

(2) a project consisting of the construction of:

(A) the Outer Parkway Project from U.S. Highway 77/83 to Farm-to-Market Road 1847; and

(B) the South Padre Island Second Access Causeway Project from State Highway 100 to Park Road 100; or

(3) a project identified as part of the Hidalgo County Loop System or the La Joya Bypass project.

(b) Before the department or an authority may enter into a comprehensive development agreement under this section, the department or the authority, as applicable, must meet the requirements under Section 223.201(j).

(c) The authority to enter into a comprehensive development agreement under this section expires August 31, 2015.

SECTION _____. Section 223.201(h), Transportation Code, is repealed.

SECTION _____. (a) A governmental act taken or a decision made by the Texas Department of Transportation and the Texas Transportation Commission under Subchapter E, Chapter 223, Transportation Code, before the effective date of this Act, to negotiate, execute, or otherwise enter into a comprehensive development agreement or facility agreement relating to the North Tarrant Express Project is conclusively presumed, as of the date the act or decision occurred, to be valid and to have occurred in accordance with all applicable law.

(b) This Act does not validate any governmental act or decision that:

(1) was void at the time the act or decision occurred;

(2) violates the terms of federal law or a federal waiver; or

(3) was a misdemeanor or a felony under a statute of this state or the United States at the time the act or decision occurred.

(c) This Act does not apply to any matter that on the effective date of this Act:

(1) is involved in litigation if the litigation ultimately results in the matter being held invalid by a final court judgment; or

(2) has been held invalid by a final court judgment.

Floor Amendment No. 91

Amend Floor Amendment No. 90 by Phillips to **CSSB 1420** (page 91 of the prefiled amendment packet, draft number 82R25237) by adding a new SECTION, appropriately numbered, to read as follows:

SECTION _____. Section 223.203, Transportation Code, is amended by amending Subsections (g), and adding Subsections (f-2), (l-1), (l-2), (p), and (q) to read as follows:

(f-2) A private entity responding to a request for detailed proposals issued under Subsection (f) must identify:

(1) companies that will fill key project roles, including project management, lead design firm, quality control management, and quality assurance management; and

(2) entities that will serve as key task leaders for geotechnical, hydraulics and hydrology, structural, environmental, utility, and right-of-way issues.

(g) In issuing a request for detailed proposals under Subsection (f), the department may solicit input from entities qualified under Subsection (e) or any other person. The department may also solicit input regarding alternative technical concepts after issuing a request under Subsection (f). A technical solution presented with a proposal must be fully responsive to, and have demonstrated resources to be able to fulfill, all technical requirements for the project, including specified quality assurance and quality control program requirements, safety program requirements, and environmental program requirements. A proposal that includes a technical solution that does not meet those requirements is ineligible for further consideration.

(l-1) A private entity selected for a comprehensive development agreement may not make changes to the companies or entities identified under Subsection (f-2) unless the original company or entity:

(1) is no longer in business, is unable to fulfill its legal, financial, or business obligations, or can no longer meet the terms of the teaming agreement with the private entity;

(2) voluntarily removes itself from the team;

(3) fails to provide a sufficient number of qualified personnel to fulfill the duties identified during the proposal stage; or

(4) fails to negotiate in good faith in a timely manner in accordance with provisions established in the teaming agreement proposed for the project.

(l-2) If the private entity makes team changes in violation of Subsection (1), any cost savings resulting from the change accrue to the state and not to the private entity.

(p) All teaming agreements and subconsultant agreements must be executed and provided to the department before the execution of the comprehensive development agreement.

Floor Amendment No. 92

Amend Floor Amendment No. 90 by Phillips (page 91, prefiled amendments packet) to **CSSB 1420** (house committee report) by inserting the following:

SECTION _____. Subchapter G, Chapter 370, Transportation Code, is amended by adding Section 370.3055 to read as follows:

Sec. 370.3055. LIMITED AUTHORITY FOR STATE HIGHWAY 550 PROJECT USING COMPREHENSIVE DEVELOPMENT AGREEMENTS. Notwithstanding Sections 370.305(d) and (f), an authority may enter into a comprehensive development agreement relating to improvements to State Highway 550 from U.S. Highway 77/83 to State Highway 48.

Floor Amendment No. 93

Amend Amendment No. 90 by Phillips to **CSSB 1420** (page 91 of the prefiled amendments packet) as follows:

(1) On page 1, line 23, strike "and".

(2) On page 1, line 26, between "1774" and "[~~agreements~~]", insert:
; and

(6) managed lane improvements to the Interstate Highway 69 project from Interstate Highway 10 to the Tyler County line

Floor Amendment No. 94

Amend Amendment No. 90 by Phillips to **CSSB 1420** (page 91 of the prefiled amendments packet) as follows:

(1) On page 1, line 23, strike "and".

(2) On page 1, line 26, between "1774" and "[~~agreements~~]", insert:
; and

(6) the Interstate Highway 69 project in Bowie County from the Sulphur River Bridge to Interstate Highway 30

Floor Amendment No. 95

Amend Amendment No. 90 to **CSSB 1420** (82R2) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. is amended by adding Section 223.2018 to read as follows:

Sec. 223.2018. LIMITED AUTHORITY FOR CERTAIN PROJECTS USING COMPREHENSIVE DEVELOPMENT AGREEMENTS.

(a) Notwithstanding Sections 223.201(f) and (i), the department may enter into a comprehensive development agreement relating to managed lane improvements to the U.S. Highway 290 Hempstead managed lanes project in Harris County from Interstate Highway 610 to State Highway 99.

(b) This section expires August 31, 2015.

Floor Amendment No. 96

Amend Amendment No. 90 to **CSSB 1420** (82R25237) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. is amended by adding Section 223.2017 to read as follows:

Sec. 223.2017. LIMITED AUTHORITY FOR CERTAIN PROJECTS USING COMPREHENSIVE DEVELOPMENT AGREEMENTS. (a) Notwithstanding Section 223.201(f) and Sections 370.305(d) and (f), the department or an authority under Section 370.003 may enter into a comprehensive development agreement relating to improvements or construction of:

(1) the Loop 1 (MoPac Improvement) project from Farm-to-Market Road 734 to Cesar Chavez Street; and

(2) the U.S. 183 (Bergstrom Expressway) project from Springdale Road to Patton Avenue.

(b) The authority to enter into a comprehensive development agreement under this section expires August 31, 2015.

Floor Amendment No. 97

Amend Amendment No. 90 to **CSSB 1420** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. is amended by adding Section 223.2013 to read as follows:

Sec. 223.2013. LIMITED AUTHORITY FOR CERTAIN PROJECTS USING COMPREHENSIVE DEVELOPMENT AGREEMENTS.

(a) Notwithstanding Sections 223.201(f) and (i), the department may enter into a comprehensive development agreement relating to managed lane improvements to the Grayson County Tollway project, an extension of the Dallas North Tollway in Grayson County;

Floor Amendment No. 98

Amend Amendment No. 90 by Phillips to **CSSB 1420** (on page 91 of the prefiled floor amendment packet) by adding the following appropriately numbered item and renumbering subsequent items of the amendment appropriately:

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

SECTION _____. Subchapter B, Chapter 228, Transportation Code, is amended by adding Section 228.0571 to read as follows:

Sec. 228.0571. INFORMATION ABOUT PAYMENT OF TOLLS. (a) In this section:

- (1) "Toll project" has the meaning assigned by Section 372.001.
- (2) "Toll project entity" has the meaning assigned by Section 372.001.
- (3) "Transponder" has the meaning assigned by Section 228.057.

(b) A toll project entity shall post signs in appropriate locations along a toll project operated by the department or entity, as appropriate, stating whether a transponder issued by another toll project entity may be used to pay the tolls of the toll project.

Floor Amendment No. 99

Amend Amendment No. 90 by Phillips to **CSSB 1420** (page 91, prefiled amendments packet) by striking page 2, line 13 through page 3, line 12 and substituting:

(k) The department may not develop a project under this section as a project under Chapter 227.

Floor Amendment No. 100

Amend Amendment No. 90 by Phillips to **CSSB 1420** (page 91 of prefiled amendments packet) as follows:

- (1) On page 1, line 26, between "1774" and "[agreements", insert;
- (6) The Highway 288 project in Brazoria & Harris Counties

Floor Amendment No. 101

Amend Amendment No. 90 by Phillips to **CSSB 1420** (page 91 of the prefiled amendments packet) by adding the following appropriately numbered items to the amendment and renumbering subsequent items accordingly:

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

SECTION _____. Subchapter B, Chapter 371, Transportation Code, is amended by adding Section 371.053 to read as follows:

Sec. 371.053. SUNSET REVIEW FOR ENTITIES RECEIVING DEPARTMENT FINANCIAL ASSISTANCE. (a) The governing body of a local toll project entity that receives or has received financial assistance from the department and that has authority to enter into a comprehensive development agreement shall either:

(1) undergo review under Chapter 325, Government Code (Texas Sunset Act) as if it were a state agency; or

(2) undergo an audit by the state auditor in accordance with Chapter 321, Government Code.

(b) A local toll project entity that is subject to review under Subsection (a)(1) may not be abolished.

(c) The local toll project entity that is subject to review under Subsection (a)(1) shall pay the cost incurred by the Sunset Advisory Commission in performing the review. The Sunset Advisory Commission shall determine the cost, and the local toll project entity shall pay the amount promptly on receipt of a statement from the Sunset Advisory Commission detailing the cost.

Floor Amendment No. 1 on Third Reading

Amend, on third reading, the Phillips Amendment No. 90 to **CSSB 1420**, as amended by Amendment Nos. 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, and 101, and adopted on second reading, as follows:

(1) Strike added Section 223.201(j), Transportation Code, and substitute:

(j) Before the department may enter into a comprehensive development agreement under Subsection (f), the department must:

(1) obtain, not later than August 31, 2013, the appropriate environmental clearance for any project other than the State Highway 99 (Grand Parkway) project; and

(2) present to the commission a full financial plan for the project, including costing methodology and cost proposals.

(k) Not later than December 1, 2012, the department shall present a report to the commission on the status of a project described in Subsection (f), including the status of the project's environmental clearance, an explanation of any project delays, and, if the procurement is not completed, the anticipated date for completion.

(l) In this section, "environmental clearance" means a finding of no significant impact has been issued for the project, or for a project for which an environmental impact statement is prepared, a record of decision has been issued for that project.

(2) Redesignate Subsection (k) of Section 223.201, Transportation Code, as Subsection (m).

(3) Add new Subsections (c)-(e) to added Section 223.2011, Transportation Code, to read as follows:

(c) Not later than December 1, 2012, the department or the authority, as applicable, shall present a report to the commission on the status of a project described in Subsection (a), including the status of the project's environmental clearance, an explanation of any project delays, and, if the procurement is not completed, the anticipated date for completion.

(d) The department may not provide any financial assistance to an authority to pay for the costs of procuring an agreement under this section.

(e) In this section, "environmental clearance" means a finding of no significant impact has been issued for the project, or for a project for which an environmental impact statement is prepared, a record of decision has been issued for that project.

(4) Redesignate Subsection (c) of added Section 223.2011, Transportation Code, as Subsection (f).

(5) At the end of the amendment, add a new SECTION to read as follows:

SECTION _____. This section and the sections of this Act that amend Section 223.201, Transportation Code, add Sections 223.2011, 223.2013, 223.2017, and 223.2018, Transportation Code, repeal Section 223.201(h), Transportation Code, and provide transitional information related to those sections, take effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution.

Floor Amendment No. 2 on Third Reading

Amend **CSSB 1420** on third reading, in added Section 221.004(c), Transportation Code (second reading Amendment No. 51 by Hilderbran), by striking "Kerr and Kimble" and substituting "Kerr, Kimble, and Montgomery".

Floor Amendment No. 3 on Third Reading

Amend **CSSB 1420**, on third reading, by adding the following appropriately numbered SECTION to the bill and renumbering the SECTIONS of the bill:

SECTION _____. The Texas Department of Transportation shall contract with a university to study whether indexing commodities, such as asphalt and steel, at the time of bid is in the best interest of the state. The study shall include surveys of relevant industry groups and other states to determine industry best practice and shall be completed and presented to the Texas Transportation Commission on or before December 31, 2011. The commission shall take appropriate action based on the results of the study.

Floor Amendment No. 4 on Third Reading

Amend **CSSB 1420** on third reading in Section 371.053, Transportation Code, as added by Amendment No. 101 by Laubenberg by striking "local toll project entity" each place it appears and substituting "regional tollway authority".

Floor Amendment No. 5 on Third Reading

Amend **CSSB 1420** on third reading as follows:

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

SECTION _____. Subchapter I-1, Chapter 201, Transportation Code, as added by this Act, takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, Subchapter I-1, Chapter 201, Transportation Code, takes effect September 1, 2011.

(2) Strike the SECTION of the bill providing that "This Act takes effect September 1, 2011." and substitute the following:

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

Floor Amendment No. 7 on Third Reading

Amend **CSSB 1420** on third reading as follows:

(1) In Section 222.074(a), Transportation Code, as added by Amendment No. 52 by Phillips, strike "or private" and substitute "~~[or private]~~".

(2) In Section 222.074(a)(2)(A), Transportation Code, as added by Amendment No. 52 by Phillips, strike "or private".

(3) In Section 222.074(a)(8), Transportation Code, as added by Amendment No. 52 by Phillips, strike "or private".

(4) In Section 222.074(f), Transportation Code, as added by Amendment No. 52 by Phillips, strike "or private".

(5) In Section 222.074(g), Transportation Code, as added by Amendment No. 52 by Phillips, strike "or private" in each place that it appears.

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

SECTION _____. Section 222.074(c), Transportation Code, is amended to read as follows:

(c) Financial assistance to a public [~~or private~~] entity under Subsection (a) shall be limited, as applicable, to a qualified project that is consistent with the transportation plan developed by the metropolitan planning organization.

SECTION _____. Subchapter D, Chapter 222, Transportation Code, is amended by adding Section 222.080 to read as follows:

Sec. 222.080. OPEN RECORDS. Notwithstanding any other law, an agreement relating to a request for financial assistance from the bank is public information subject to disclosure under Chapter 552, Government Code, if the request for financial assistance is approved.

SECTION _____. Section 222.074(b), Transportation Code, is repealed.

Floor Amendment No. 8 on Third Reading

Amend **CSSB 1420** on third reading as follows:

(1) Strike Section 222.079, Transportation Code, as added by Amendment No. 52 by Phillips.

(2) Make necessary conforming changes to the recital of the SECTION adding Section 222.079, Transportation Code.

Floor Amendment No. 10 on Third Reading

Amend **CSSB 1420** on third reading by striking Section 223.242(d), Transportation Code, as added by second reading Amendment No. 14 as amended by Amendment No. 15 by Harper-Brown and substituting:

(d) The department may enter into not more than three design-build contracts for highway projects, each of which has a construction cost estimate of \$50 million or more to the department, in any fiscal year.

Floor Amendment No. 11 on Third Reading

Amend **CSSB 1420** on third reading by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter C, Chapter 111, Transportation Code, is amended by adding Section 111.103 to read as follows:

Sec. 111.103. HIGH SPEED RAIL SAFETY STANDARDS; FEES. (a) Except as provided by Subsection (f), on application by a railroad, the department by rule may adopt safety standards for high-speed passenger rail rolling stock and systems designed to operate at speeds in excess of 185 miles per hour for that railroad.

(b) The department may require the high-speed rail system to be isolated by grade separations or physical barriers from streets and roadways and existing freight or passenger railroads.

(c) The department shall consider safety records of rolling stock and systems operating internationally in countries with a history of safe commercial high-speed passenger rail service.

(d) A railroad is not required to seek approval of high-speed rail safety standards from the department if it is operating under standards approved by the Federal Railroad Administration or other federal authority.

(e) The department by rule shall adopt reasonable fees to recover all costs to administer this section.

(f) The department may not adopt safety standards for high-speed passenger rail rolling stock and systems unless the department has developed a high-speed rail plan.

The amendments were read.

Senator Hinojosa moved that the Senate do not concur in the House amendments, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed without objection.

The Presiding Officer, Senator Eltife in Chair, asked if there were any motions to instruct the conference committee on **SB 1420** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Hinojosa, Chair; Nelson, Hegar, Nichols, and Williams.

(President in Chair)

BILLS SIGNED

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

SB 782, SB 894, HB 558, HB 600, HB 801, HB 1551, HB 1944.

HOUSE CONCURRENT RESOLUTION 148

The President laid before the Senate the following resolution:

WHEREAS, House Bill No. 74 has passed the Texas House of Representatives and the Texas Senate and is now in the office of the governor; and

WHEREAS, Further consideration of the bill by the house of representatives and the senate is necessary; now, therefore, be it

RESOLVED by the 82nd Legislature of the State of Texas, That the governor be hereby requested to return House Bill No. 74 to the house of representatives to allow the chief clerk of the house of representatives to make a correction in the certification; and, be it further

RESOLVED, That the action of the speaker of the house of representatives and the president of the senate in signing House Bill No. 74 be declared null and void and that the two presiding officers be authorized to remove their signatures from the enrolled bill.

VAN DE PUTTE

HCR 148 was read.

On motion of Senator Van de Putte, the resolution was considered immediately and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of the resolution except as follows:

Absent-excused: Williams.

**COMMITTEE SUBSTITUTE
SENATE BILL 1584 ON THIRD READING**

Senator Ogden moved to suspend the regular order of business to take up for consideration **CSSB 1584** at this time on its third reading and final passage:

CSSB 1584, Relating to state fiscal matters related to natural resources and the environment.

The motion prevailed.

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

The bill was read third time.

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 1 on Third Reading

Amend **CSSB 1584** (senate committee report) on third reading by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE ____ . TEMPORARY EXEMPTION OR TAX REDUCTION FOR
CERTAIN HIGH-COST GAS

SECTION ____ . (a) Section 201.057, Tax Code, is amended by adding Subsection (e-1) to read as follows:

(e-1) Each month, the commission shall certify the average closing price of gas during the previous three months based on various price indices available to producers. The commission shall publish certifications under this subsection in the Texas Register. Notwithstanding any other provision of this section, the commission may not certify that gas is high-cost gas for purposes of this section during any month that the average closing price of gas certified by the commission for the previous three-month period is more than \$4 per mcf. If the price is later \$4 per mcf or less, any drilling and completion costs incurred during a month when the price exceeds \$4 per mcf are excluded from the calculation of the cumulative value of the exemption under Subsection (c).

(b) The Railroad Commission of Texas shall publish the initial certification required by Section 201.057(e-1), Tax Code, as added by this section, not later than September 30, 2011.

The amendment to **CSSB 1584** was read.

Senator Ellis withdrew Floor Amendment No. 1 on Third Reading.

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 2 on Third Reading

Amend **CSSB 1584** (senate committee report) on third reading by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE _____. TEMPORARY EXEMPTION OR TAX REDUCTION FOR
CERTAIN HIGH-COST GAS

SECTION _____. (a) Section 201.057, Tax Code, is amended by adding Subsection (e-1) to read as follows:

(e-1) Each month, the commission shall certify the average closing price of gas during the previous three months based on various price indices available to producers. The commission shall publish certifications under this subsection in the Texas Register. Notwithstanding any other provision of this section, the commission may not certify that gas is high-cost gas for purposes of this section during any month that the average closing price of gas certified by the commission for the previous three-month period is more than \$6.50 per mcf. If the price is later \$6.50 per mcf or less, any drilling and completion costs incurred during a month when the price exceeds \$6.50 per mcf are excluded from the calculation of the cumulative value of the exemption under Subsection (c).

(b) The Railroad Commission of Texas shall publish the initial certification required by Section 201.057(e-1), Tax Code, as added by this section, not later than September 30, 2011.

The amendment to **CSSB 1584** was read.

Senator Davis offered the following amendment to Floor Amendment No. 2 on Third Reading:

Floor Amendment No. 3 on Third Reading

Amend Floor Amendment No. 2 on Third Reading by Ellis to **CSSB 1584** on third reading as follows:

(1) In the recital to the SECTION of the amendment amending Section 201.057, Tax Code, strike "Subsection (e-1)" and substitute "Subsections (e-1) and (e-2)".

(2) In the SECTION of the amendment amending Section 201.057, Tax Code, insert a new Subsection (e-2) as follows:

(e-2) If the commission does not certify the gas as high-cost gas under Subsection (e-1), the comptroller shall determine the additional revenue from the tax imposed under this chapter that is attributable to the gas not being certified. After deducting the amount required by Section 201.403, the comptroller shall deposit that revenue to the credit of the foundation school program. Section 201.404 does not apply to revenue deposited under this subsection.

The amendment to Floor Amendment No. 2 on Third Reading to **CSSB 1584** was read.

Senator Davis withdrew Floor Amendment No. 3 on Third Reading.

Question recurring on the adoption of Floor Amendment No. 2 on Third Reading to **CSSB 1584**, the (revised) amendment failed of adoption by the following vote: Yeas 16, Nays 13, Present-not voting 1. (Not receiving two-thirds vote of Members present)

Yeas: Carona, Davis, Ellis, Gallegos, Hegar, Hinojosa, Jackson, Lucio, Rodriguez, Shapiro, Uresti, Van de Putte, Watson, West, Whitmire, Zaffirini.

Nays: Birdwell, Deuell, Duncan, Eltife, Estes, Fraser, Harris, Huffman, Nelson, Nichols, Patrick, Seliger, Wentworth.

Present-not voting: Ogden.

Absent-excused: Williams.

CSSB 1584 was finally passed by the following vote: Yeas 28, Nays 2.

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

Nays: Fraser, Jackson.

Absent-excused: Williams.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

Friday, May 6, 2011 - 2

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:

HB 122 Veasey

Relating to proof that is acceptable for identifying individuals acknowledging written instruments.

HB 577 McClendon

Relating to emergency prehospital care provided by emergency services personnel.

HB 595 Raymond

Relating to the punishment prescribed for false identification as a peace officer.

HB 654 Solomons

Relating to a report regarding the municipality or county of origin of certain tax revenue collected by the comptroller.

- HB 673** Parker
Relating to the production and use of an instructional video on recreational water safety.
- HB 753** Raymond
Relating to the recruitment and retention of certain caseworkers employed by the Department of Family and Protective Services.
- HB 762** Lozano
Relating to establishing a pill splitting program to reduce health plan costs for certain public employees.
- HB 777** Gonzalez, Naomi
Relating to court costs imposed on conviction and deposited to the appropriate courthouse security fund or court building security fund.
- HB 783** Davis, Yvonne
Relating to certain offenses that involve impersonating a peace officer or other public servant and misrepresenting the nature of certain property.
- HB 807** Parker
Relating to the notice provided to a foster parent before a change in a child's foster care placement.
- HB 818** Howard, Donna
Relating to use of compensatory education allotment funding to provide assistance with child care to students at risk of dropping out of school.
- HB 826** Farias
Relating to facilitating the enrollment in or transfer to a public school district of a student in the conservatorship of the state.
- HB 872** Davis, Yvonne
Relating to the right of a person exempt from registration as a property tax consultant who files a protest with the appraisal review board on behalf of a property owner to receive notices from the board regarding the property subject to the protest.
- HB 970** Gonzales, Larry
Relating to the use of municipal hotel occupancy tax revenue to enhance and upgrade coliseums and multiuse facilities in certain municipalities.
- HB 971** King, Phil
Relating to removal of the requirement that an electric utility designate a preferred route for a transmission line in an application for a certificate of convenience and necessity.
- HB 1033** Craddick
Relating to the authority of certain counties to impose a county hotel occupancy tax.
- HB 1071** Davis, Sarah
Relating to the extension of deed restrictions in certain residential real estate subdivisions.
- HB 1080** Gallego
Relating to an exemption for active duty personnel and certain veterans from the requirement to complete the live firing portion of a hunter education program.

- HB 1090** Gonzalez, Naomi
Relating to the calculation of interest on certain ad valorem tax refunds.
- HB 1111** Hartnett
Relating to a tenant's failure to pay rent during an appeal of an eviction for nonpayment of rent after filing a pauper's affidavit.
- HB 1135** Aycock
Relating to an application to run for political office.
- HB 1178** Flynn
Relating to employment protection for members of the state military forces.
- HB 1226** Dutton
Relating to the eligibility of certain persons who have received deferred adjudication to vote.
- HB 1315** Aliseda
Relating to the use of municipal hotel occupancy tax revenue in certain municipalities.
- HB 1335** Allen
Relating to certain resources available to teachers of a public school student with a disability under the statewide plan for delivery of services to public school students with disabilities.
- HB 1354** Davis, Sarah
Relating to liability of certain certified municipal inspectors for services rendered during an emergency or disaster.
- HB 1456** Orr
Relating to the waiver and release of a mechanic's, contractor's, or materialman's lien or payment bond claim and to the creation of a mechanic's, contractor's, or materialman's lien for certain landscaping.
- HB 1500** White
Relating to allowing the commissioners court of a county to deliberate in a closed meeting regarding business and financial issues related to a contract being negotiated.
- HB 1502** White
Relating to allowing military voters on active duty overseas to receive and cast a ballot electronically.
- HB 1517** Isaac
Relating to the disposition of fines for traffic violations collected by certain municipalities.
- HB 1604** Guillen
Relating to the regulation of subdivisions in counties, including certain border and economically distressed counties.
- HB 1610** Gonzales, Larry
Relating to employment termination procedures applicable to a teacher who is convicted of or receives deferred adjudication for a felony.

HB 1616

Geren

Relating to the reporting or providing of information, including information relating to political contributions, political expenditures, and personal financial information, by public servants, political candidates and committees, and persons required to register under the lobby registration law, and to complaints filed with and the functions of the Texas Ethics Commission.

HB 1619

Orr

Relating to emergency services districts.

HB 1649

Marquez

Relating to building code standards for new residential construction in the unincorporated area of a county.

HB 1678

Burkett

Relating to the employment of an elections administrator.

HB 1749

Kuempel

Relating to county roads mistakenly established and maintained by an adjoining county.

HB 1772

Taylor, Larry

Relating to the regulation of certain benefit plans.

HB 1821

Anderson, Rodney

Relating to the delivery of subdivision information by a property owners' association to purchasers.

HB 1834

Shelton

Relating to elimination of certain requirements for increasing community awareness of prekindergarten programs offered by or in partnership with school districts.

HB 1839

Phillips

Relating to excluding a provider of recreational classes that do not lead to an educational credential from regulation as a career school or college.

HB 1840

Phillips

Relating to the creation and functions of the Texas Grain Producer Indemnity Board.

HB 1930

Zedler

Relating to the membership and duties of the Human Trafficking Prevention Task Force.

HB 1931

Hartnett

Relating to a person who may serve as a special judge in certain civil and family law matters.

HB 1960

Deshotel

Relating to the regulation of boat manufacturers, distributors, and dealers; providing a civil penalty.

HB 1983

Kolkhorst

Relating to certain childbirths occurring before the 39th week of gestation.

HB 1985

Turner

Relating to the collection of criminal and civil court costs, fees, and fines by a municipality or county and to notice to the Department of Public Safety regarding payment of an administrative fee by certain persons denied renewal of a driver's license.

HB 1988

Gallego

Relating to the right of one immediate family member of certain deceased peace officers to make an oral statement regarding the terms of a plea bargain agreement.

HB 2038

Price

Relating to prevention, treatment, and oversight of concussions affecting public school students participating in interscholastic athletics.

HB 2042

Menendez

Relating to defense base development authorities, including the powers of an authority and the taxation of certain tangible personal property located on the base property for which the authority is established.

HB 2048

Lyne

Relating to the collection and enforcement of state and local hotel occupancy taxes.

HB 2052

Pena

Relating to the reporting of certain information to county voter registrars by the secretary of state.

HB 2061

Pena

Relating to the reporting of certain information to the director of the bureau of vital statistics.

HB 2100

Lewis

Relating to the exemption from taxation of property of a local government corporation.

HB 2109

Truitt

Relating to agency action concerning assisted living facilities, including regulation of inappropriate placement of residents at facilities; providing a penalty.

HB 2127

Geren

Relating to the municipal regulation of the discharge of firearms and certain other weapons in certain counties.

HB 2136

Guillen

Relating to regional contracted brokers and subcontractors of regional contracted brokers providing Medicaid nonemergency medical transportation services.

HB 2160

Coleman

Relating to the governing bodies of certain local planning organizations.

HB 2172

Torres

Relating to the eligibility of certain children under group life insurance policies.

- HB 2173** Torres
Relating to a pilot program allowing certain military overseas voters to receive and cast a ballot electronically.
- HB 2195** Hartnett
Relating to requirements for certain arrangements or agreements of certain regional transportation authorities.
- HB 2205** Oliveira
Relating to the eligibility of persons to participate in the public sale of certain real property and the purchase of that property; providing a penalty.
- HB 2220** Davis, Yvonne
Relating to the requirement to prepay ad valorem taxes as a prerequisite to determining certain motions or protests and the authority of an appraisal review board to determine compliance with the requirement.
- HB 2284** Hardcastle
Relating to the practice of architecture and engineering.
- HB 2285** Nash
Relating to reimbursement of costs incurred for the collection of certain blood specimens as a condition of community supervision.
- HB 2295** Frullo
Relating to the administration of the universal service fund.
- HB 2367** Parker
Relating to the creation of an advisory panel to study certain parental rights relating to possession of or access to the parent's child.
- HB 2374** Gallego
Relating to the taking of children into custody by certain law enforcement officers.
- HB 2396** McClendon
Relating to the pledge of advanced transportation district sales and use taxes to certain bonds.
- HB 2477** Harless
Relating to the provision of bilingual election materials.
- HB 2549** Crownover
Relating to the authority of a state employee to authorize a deduction from the employee's salary or wage payment for a charitable contribution to certain entities.
- HB 2576** Truitt
Relating to a disclosure statement on the out-of-pocket costs incurred for health care services and supplies provided to consumers receiving outpatient care at a hospital outpatient clinic.
- HB 2577** Miller, Sid
Relating to the unlawful use of a criminal instrument or mechanical security device; providing a penalty.

- HB 2584** Anderson, Rodney
Relating to authorizing certain municipalities to donate surplus real property of negligible or negative value to certain private persons.
- HB 2604** Taylor, Larry
Relating to unencumbered assets held by title agents.
- HB 2636** Kolkhorst
Relating to a commission to study neonatal intensive care units.
- HB 2651** Allen
Relating to the eligibility of visitors to use certain public transportation services for people with disabilities.
- HB 2655** Sheets
Relating to notice of coverage reduction on renewal of a property/casualty insurance policy.
- HB 2699** Eiland
Relating to the requirements for an insurance adjuster license.
- HB 2703** Truitt
Relating to the regulation of orthotists and prosthetists.
- HB 2723** Walle
Relating to notice of premium increase for certain health benefit plans.
- HB 2742** Kleinschmidt
Relating to the business of structural pest control.
- HB 2784** Alonzo
Relating to the refund policy for courses and programs at career schools and colleges.
- HB 2810** Miller, Sid
Relating to an exemption from the sales and use tax for tangible personal property incorporated into or attached to certain agricultural structures.
- HB 2872** Orr
Relating to restrictions on the sale of certain motor vehicles at vehicle shows or exhibitions.
- HB 2882** Scott
Relating to subrogation of certain costs for services provided or paid by the Nueces County Hospital District; providing penalties.
- HB 2899** Hartnett
Relating to decedents' estates.
- HB 2903** Zerwas
Relating to the program of all-inclusive care for the elderly.
- HB 2947** Coleman
Relating to the exception of an audit working paper of a hospital district from required disclosure under the public information law.
- HB 2972** Smith, Todd
Relating to the municipal sales and use tax for street maintenance.

HB 2993

Miles

Relating to offenses involving violating the civil rights of a person in custody and engaging in improper sexual activity with a person in custody; providing certain enhanced penalties.

HB 3002

Hughes

Relating to certain conservation and reclamation districts exempted from filing a full audit.

HB 3071

Veasey

Relating to contract award considerations by certain conservation and reclamation districts.

HB 3078

Gallego

Relating to the residency requirement for certain elective offices of certain political subdivisions.

HB 3085

Taylor, Larry

Relating to the period of a license for a freestanding medical emergency care facility.

HB 3090

Creighton

Relating to the frequency of water audits by certain retail public utilities.

HB 3109

Craddick

Relating to the rulemaking power of certain groundwater conservation districts.

HB 3116

Gonzales, Veronica

Relating to the execution of deeds conveying residential real estate in connection with certain transactions involving residential real estate.

HB 3117

Vo

Relating to the reporting of information to claims databases by insurers.

HB 3134

Crownover

Relating to the plugging of inactive oil and gas wells.

HB 3135

Shelton

Relating to reasonable break times and facilities for school district educators expressing breast milk.

HB 3145

Naishtat

Relating to the regulation of chemical dependency counselors.

HB 3161

Hancock

Relating to limited purpose subsidiary life insurance companies.

HB 3197

Coleman

Relating to creating a pilot program to implement the culture change model of care at certain state supported living centers.

HB 3269

Callegari

Relating to certain grants awarded under the new technology research and development program.

HB 3278

Shelton

Relating to membership of the commissioner of education and the Texas Education Agency in certain advisory committees, commissions, task forces, and other similar entities.

- HB 3298** Harper-Brown
Relating to the transfer of certain vehicle registrations at the time of sale of the vehicle.
- HB 3329** Keffer
Relating to a daily temporary private club permit for a nonprofit corporation.
- HB 3337** Gonzales, Veronica
Relating to the emergency medical services that give rise to an emergency medical services lien.
- HB 3391** Miller, Doug
Relating to rainwater harvesting and other water conservation initiatives.
- HB 3396** Hernandez Luna
Relating to the prosecution of and punishment for the offense of breach of computer security.
- HB 3457** Eiland
Relating to the selection of certain members of the board of directors of an appraisal district.
- HB 3582** Harless
Relating to the allocation to certain school districts of the expenses of a joint election.
- HB 3689** Oliveira
Relating to The University of Texas at Brownsville, including its partnership agreement with the Texas Southmost College District.
- HB 3722** Guillen
Relating to the boater education program of the Parks and Wildlife Department.
- HB 3724** Guillen
Relating to the Chronic Kidney Disease Task Force.
- HB 3771** Harper-Brown
Relating to the authority of the Texas Department of Transportation to approve safety standards for high-speed rail; authorizing a fee.
- HB 3796** Gallego
Relating to the composition of certain judicial districts.
- HB 3807** Woolley
Relating to the option of providing electronic recordings of proceedings in the municipal court of record for the City of Houston.
- HB 3808** King, Tracy O.
Relating to fishing with certain archery equipment in certain counties.
- HB 3811** Gallego
Relating to the annual audit of the books and records of the Big Bend Regional Hospital District.
- HB 3846** Laubenberg
Relating to the creation of the Mustang Ranch Municipal Management District No. 1; providing authority to levy an assessment and issue bonds.

- HCR 86** Chisum
Designating the Texas State Bison Herd at Caprock Canyons State Park as the official State Bison Herd of Texas.
- HCR 98** Hunter
Requesting the lieutenant governor and the speaker to create a joint interim committee to study the safe and effective use of high-powered air rifles.
- HCR 127** Naishtat
Designating the year 2012 as the Lady Bird Johnson Centennial Year.
- HCR 133** Bonnen
Designating the red drum as the official State Saltwater Fish of Texas.
- HJR 63** Pickett
Proposing a constitutional amendment authorizing the legislature to permit a county to issue bonds or notes to finance the development or redevelopment of an unproductive, underdeveloped, or blighted area and to pledge for repayment of the bonds or notes increases in ad valorem taxes imposed by the county on property in the area.
- SB 265** Zaffirini Sponsor: Carter
Relating to training for employees and operators of certain child-care facilities.
- SB 378** Hegar Sponsor: Hunter
Relating to the date by which a pest management zone or cotton grower may request an extension of the cotton stalk destruction deadline.
- SB 528** Huffman Sponsor: Coleman
Relating to meetings of the University of Houston System Board of Regents.
- SB 820** Harris Sponsor: Thompson
Relating to a court order for the possession of or access to a child under three years of age.
- SB 877** Hinojosa Sponsor: Gallego
Relating to a verification of the incarceration of an accused person in a criminal case for the purpose of discharging a surety's liability on a bail bond.
- SB 893** Whitmire Sponsor: Hardcastle
Relating to motor fuel quality and testing.
(Committee Substitute)
- SB 918** Wentworth Sponsor: Thompson
Relating to immunity for reporting insurance fraud.
- SB 1195** Rodriguez Sponsor: Quintanilla
Relating to postponement of jury service in certain counties.
- SB 1272** Eltife Sponsor: Lavender
Relating to tuition rates and formula funding for certain nonresident students enrolled at Texas A&M University–Texarkana.
- SB 1303** West Sponsor: King, Tracy O.
Relating to nonsubstantive additions to and corrections in enacted codes, to the nonsubstantive codification or disposition of various laws omitted from enacted codes, and to conforming codifications enacted by the 81st Legislature to other Acts of that legislature.

THE HOUSE HAS REFUSED TO CONCUR IN THE SENATE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

HB 1 (103 Yeas, 18 Nays, 2 Present, not voting)

House Conferees with Instructions: Pitts - Chair/Crownover/Otto/Turner/Zerwas

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

(Senator Eltife in Chair)

**COMMITTEE SUBSTITUTE
SENATE BILL 1543 ON SECOND READING**

Senator Wentworth moved to suspend the regular order of business to take up for consideration **CSSB 1543** at this time on its second reading:

CSSB 1543, Relating to the authority of an independent school district to invest in corporate bonds.

The motion prevailed.

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

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

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

Nays: Birdwell, Nelson, Patrick.

Absent-excused: Williams.

**COMMITTEE SUBSTITUTE
SENATE BILL 1543 ON THIRD READING**

Senator Wentworth moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1543** be placed on its third reading and final passage.

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

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

Nays: Birdwell, Harris, Jackson, Nelson, Patrick, Watson.

Absent-excused: Williams.

The bill was read third time and was passed by the following vote: Yeas 27, Nays 3.

Yeas: Carona, Davis, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hegar, Hinojosa, Huffman, Jackson, Lucio, Nichols, Ogden, Rodriguez, Seliger, Shapiro, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Zaffirini.

Nays: Birdwell, Nelson, Patrick.

Absent-excused: Williams.

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 18 ADOPTED**

Senator Estes called from the President's table the Conference Committee Report on **SB 18**. The Conference Committee Report was filed with the Senate on Monday, May 2, 2011.

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

Absent-excused: Williams.

**COMMITTEE SUBSTITUTE
SENATE BILL 1113 ON SECOND READING**

On motion of Senator Wentworth and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1113** at this time on its second reading:

CSSB 1113, Relating to certain contracts entered into by school districts for another entity to provide food services at one or more district schools.

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

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

Absent-excused: Williams.

**COMMITTEE SUBSTITUTE
SENATE BILL 1113 ON THIRD READING**

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

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

Absent-excused: Williams.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

(President in Chair)

RESOLUTION SIGNED

The President announced the signing of the following enrolled resolution in the presence of the Senate: **HCR 148**.

SENATE RULES SUSPENDED
(Posting Rules)

On motion of Senator Carona and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on Business and Commerce might meet and consider the following bills today: **SB 995, SB 1309.**

NOTICE GIVEN FOR
LOCAL AND UNCONTESTED CALENDAR

Senator Eltife announced that a Local and Uncontested Calendar had been furnished to each Member of the Senate. He then gave notice that the Local and Uncontested Calendar Session would be held at 8:00 a.m. Tuesday, May 10, 2011, and that all bills and resolutions would be considered on second and third reading in the order in which they were listed.

REMARKS ORDERED PRINTED

On motion of Senator Eltife and by unanimous consent, the remarks by Senator Shapiro regarding James "Jim" Boswell were ordered reduced to writing and printed in the *Senate Journal* as follows:

You know, all of us in our lifetime, particularly as elected officials, always have a Jim Boswell in their life. And I am here today to recognize Jim Boswell, my friend who died of brain cancer May 8th of last year at the age of 71. And the reason I say that we all have a Jim Boswell is because, if you think about your friends, and you think particularly about your political friends, everybody has a friend that'll be with you through thick and thin, no matter what your decisions, good or bad, whatever your thoughts are in the political arena. Jim was that friend to me. He was an exceptional individual. He was valedictorian of his high school class in Polkston, Charlotte, I mean, Polkton, North Carolina. He loved politics, it was his life. He thrived on every day reading the paper, looking at what was going on. He started, actually, at George Washington University where he got a political science degree. Then he, of course, went from there to his first job, which was in Charlotte where he actually worked at the county courthouse swearing in juries. Can you imagine having somebody that started back then, swearing in juries? But, the politics just got in his blood, got in his system, and he never let it go. I was fortunate when Jim and his wife and his daughter, Leslie, moved to Plano in 1976. He used to be called Mr. Plano. There was nothing Jim Boswell wouldn't do for the city. He was an amazing leader, and we were very fortunate when he took a job at Plano Hospital, back then it was called Presbyterian. It's now Texas Health Presbyterian Hospital of Plano. He was so beloved. He was actually the Director of Physician Relations, and there was not a time that went by that anybody who had a child or a spouse or a husband or a wife or a grandparent who was sick and was going to that hospital, that you didn't call Jim Boswell up and say, Jim, my little girl broke her arm. He'd be there waiting for you at the emergency room. That's the kind of friend that Jim Boswell was. He was a family man. He was beloved in the community. He was actively engaged in the Chamber

of Commerce, was President of the Chamber, served as Chairman of the Chamber. He was on the city's Planning and Zoning Commission. He was recognized by every organization for his civic virtues. And in 1992, he was named Citizen of the Year. Members, you and I know, these people are rare in our lives. This is a man I still think of almost daily, particularly, when I'm here on the Senate floor. He loved what we did. He knew each of you by name, believe it or not. He knew you by name, that's how much he was committed to what we do in this body. Jim was passionate. Jim was outgoing. Jim was loyal. At his death, I know, today, his wife, Myra, and his daughter, Leslie, are probably still angst and hurting from the loss of our friend. In truth, it's been very difficult for me and my family, as well. That's how good a friend he was. Plano has not been the same since Jim Boswell passed away last May 8th. It's almost been a year. And it's been one of those years, particularly, since January, that I miss him day in and day out. And I felt it was absolutely essential that we remember his contributions, his indelible contributions to our community and to the state. And so, for those reasons and many, many others, I wish for the Senate this day to adjourn in the memory of Jim Boswell. Thank you.

CO-AUTHOR OF SENATE BILL 200

On motion of Senator Zaffirini, Senator Wentworth will be shown as Co-author of **SB 200**.

CO-AUTHOR OF SENATE BILL 1214

On motion of Senator Patrick, Senator Ogden will be shown as Co-author of **SB 1214**.

CO-AUTHOR OF SENATE BILL 1417

On motion of Senator Hinojosa, Senator Williams will be shown as Co-author of **SB 1417**.

RESOLUTIONS OF RECOGNITION

The following resolutions were adopted by the Senate:

Memorial Resolutions

SCR 54 by Fraser, In memory of Gregory Mack Simmons.

SR 928 by Hinojosa, Lucio, and Rodriguez, In memory of Michael A. Allen of McAllen.

SR 929 by Williams, In memory of Sammie Lindsay Cadenhead.

SR 936 by Zaffirini, In memory of Santos Porras Jr.

Congratulatory Resolutions

SR 924 by Van de Putte, Recognizing the 2011 recipients of the H-E-B Excellence in Education Awards.

SR 930 by West, Recognizing the Mountain View College Lions men's basketball team for winning a national championship title.

SR 933 by Ellis, Recognizing Debra L. Friedkin for her support of the research at the Debra L. Friedkin archaeological site.

SR 934 by Ellis, Recognizing Lady Jackie Pope of Houston for her service to the Top Ladies of Distinction, Incorporated.

SR 937 by Jackson, Recognizing Madison Jewel Gee of Lake Jackson on the occasion of her high school graduation.

ADJOURNMENT

On motion of Senator Whitmire, the Senate at 2:01 p.m. adjourned, in memory of James "Jim" Boswell, until 11:00 a.m. Monday, May 9, 2011.

APPENDIX

COMMITTEE REPORTS

The following committee reports were received by the Secretary of the Senate in the order listed:

May 6, 2011

INTERGOVERNMENTAL RELATIONS — **SB 1405, HB 460, HB 564, CSHB 843, SB 1441, HB 1488, HB 1862, HB 1869, HB 1917**

HEALTH AND HUMAN SERVICES — **CSSB 471, SB 856, SB 1449, CSSB 1265, CSSB 1360, SB 1424, SB 1448, CSSB 1854, CSSB 1857, CSSB 709, HB 35, HB 118, HB 434, CSHB 848, HB 871, CSHB 943, CSHB 1380, CSHB 1829**

FINANCE — **CSSB 1588**

JURISPRUDENCE — **CSHB 908**

EDUCATION — **CSHB 370**

STATE AFFAIRS — **HB 625, HB 755, HB 1061, HB 1545, SB 1666**

INTERGOVERNMENTAL RELATIONS — **HB 2670, HB 315, HB 679, HB 2351**

FINANCE — **SB 1771**

INTERGOVERNMENTAL RELATIONS — **CSSB 1440**

OPEN GOVERNMENT — **CSSB 1829**

HIGHER EDUCATION — **CSSB 1724**

EDUCATION — **CSHB 6**

STATE AFFAIRS — **CSHB 1136**

OPEN GOVERNMENT — **CSSB 1826**

BILLS ENGROSSED

May 5, 2011

SB 32, SB 34, SB 66, SB 105, SB 570, SB 682, SB 812, SB 954, SB 955, SB 956, SB 1032, SB 1057, SB 1120, SB 1198, SB 1209, SB 1234, SB 1286, SB 1422, SB 1438, SB 1471, SB 1529, SB 1532, SB 1533, SB 1579, SB 1583, SB 1636, SB 1727, SB 1731, SB 1737, SB 1742, SB 1743, SB 1751, SB 1760, SB 1789, SB 1816, SB 1849, SB 1875, SB 1877, SB 1878, SB 1882, SB 1909, SB 1910

BILLS AND RESOLUTIONS ENROLLED

May 5, 2011

SB 782, SB 894, SR 506, SR 907, SR 915, SR 922, SR 923, SR 926, SR 927

SENT TO GOVERNOR

May 6, 2011

SB 782, SB 894

