

SENATE JOURNAL

EIGHTY-SECOND LEGISLATURE — REGULAR SESSION

AUSTIN, TEXAS

PROCEEDINGS

SIXTY-SEVENTH DAY

(Tuesday, May 24, 2011)

The Senate met at 10:49 a.m. pursuant to adjournment and was called to order by Senator Eltife.

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

The Reverend Danny P. Reeves, First Baptist Church, Corsicana, was introduced by Senator Birdwell and offered the invocation as follows:

Almighty God, loving Lord, creator of life, I praise You and thank You for Your goodness. I praise You for the privilege of being in this place. I praise You that we have the blessing of being in a chamber like this where we can self-govern under Your authority. We thank You today that we have the honor of being citizens of the United States of America. We thank You even more that we are blessed to live in the great State of Texas. I ask today as we begin this day's session that You bless these leaders around me. Thank You so much for their commitment, their service, and their sacrifice. May You provide them support, guidance, courage, and wisdom. We know that You are well aware of the financial needs in our state, so I pray today that You would help us to be good stewards of the resources You have given. We pray You would open the floodgates of heaven and provide for us as only You can. We proclaim to You today that, "In God we trust." We humbly confess that we need You, we trust You, and we find our hope only in You. May everything that happens in this room be pleasing to You, and may our actions on this day be acceptable in Your sight. I pray these things humbly before You, my Lord and my God. 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

Tuesday, May 24, 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:

SB 249 Estes Sponsor: Orr
Relating to the composition of the Finance Commission of Texas.
(Amended)

SB 341 Uresti Sponsor: Menendez
Relating to authorizing the dissolution of the Bexar Metropolitan Water District;
providing a penalty.
(Committee Substitute/Amended)

SB 377 Huffman Sponsor: Riddle
Relating to the murder of a child as a capital offense.
(Amended)

SB 425 Carona Sponsor: Hancock
Relating to property and casualty certificates of insurance and approval of property
and casualty certificate of insurance forms by the Texas Department of Insurance;
providing penalties.
(Committee Substitute/Amended)

SB 479 Estes Sponsor: Miller, Sid
Relating to limiting the liability of certain persons for farm animal activities.
(Amended)

SB 594 Van de Putte Sponsor: Zerwas
Relating to certain procedures applicable to electronic prescriptions for Schedule II
controlled substances.
(Amended)

SB 762 Carona Sponsor: Paxton
Relating to the transfer of an ad valorem tax lien; providing for the imposition of an
administrative penalty.
(Committee Substitute/Amended)

SB 859 Duncan Sponsor: Smithee
Relating to small and large employer health group cooperatives.
(Amended)

SB 924 Carona Sponsor: Keffer
Relating to energy efficiency reports by municipally owned utilities and electric
cooperatives.
(Amended)

- SB 958** Wentworth Sponsor: Larson
Relating to the regulation of dangerous wild animals.
(Committee Substitute/Amended)
- SB 1010** Huffman Sponsor: Workman
Relating to providing a victim, guardian of a victim, or close relative of a deceased victim with notice of a plea bargain agreement in certain criminal cases.
(Amended)
- SB 1026** Harris Sponsor: Naishtat
Relating to the powers and duties of an attorney ad litem appointed for a parent or an alleged father in certain suits affecting the parent-child relationship.
(Committee Substitute)
- SB 1068** Ellis Sponsor: Guillen
Relating to the lease of certain state parking facilities to other persons.
(Committee Substitute)
- SB 1094** Rodriguez Sponsor: Strama
Relating to the availability of online testing for high school equivalency examinations.
(Committee Substitute)
- SB 1114** Wentworth Sponsor: Smith, Todd
Relating to the regulation of driver training schools and instructors.
(Amended)
- SB 1134** Hegar Sponsor: Craddick
Relating to the issuance of permits for certain facilities regulated by the Texas Commission on Environmental Quality.
(Committee Substitute/Amended)
- SB 1169** Carona Sponsor: Hamilton
Relating to the regulation of providers, administrators, and sellers of service contracts and identity recovery service contracts; providing penalties.
(Committee Substitute)
- SB 1179** Nelson Sponsor: Harper-Brown
Relating to the elimination of certain required reports prepared by state agencies and institutions of higher education and other obsolete provisions of law.
(Amended)
- SB 1185** Nichols Sponsor: Gooden
Relating to the authority of certain counties to impose a hotel occupancy tax for the operation and maintenance of a fairground in the county.
(Committee Substitute)
- SB 1196** Rodriguez Sponsor: Hartnett
Relating to guardianships and alternatives to guardianship for persons who have physical disabilities or who are incapacitated.
(Amended)
- SB 1209** Whitmire Sponsor: Marquez
Relating to the detention of certain juvenile offenders.
(Amended)

- SB 1216** Estes Sponsor: Hartnett
Relating to determination of the validity and enforceability of a contract containing an arbitration agreement in suits for dissolution of marriage and certain suits affecting the parent-child relationship.
(Committee Substitute)
- SB 1233** West Sponsor: Coleman
Relating to the promotion of efficiencies in and the administration of certain district court and county services and functions.
(Committee Substitute/Amended)
- SB 1234** West Sponsor: Dutton
Relating to municipal management districts.
(Committee Substitute)
- SB 1271** Duncan Sponsor: Perry
Relating to alternative dispute resolution systems established by counties.
(Committee Substitute)
- SB 1413** Hegar Sponsor: Kleinschmidt
Relating to the authority of certain counties to impose a county hotel occupancy tax and to the rate of the tax.
(Committee Substitute)
- SB 1449** Zaffirini Sponsor: Raymond
Relating to an alternative method of satisfying certain licensing requirements for chemical dependency treatment facilities.
(Committee Substitute)
- SB 1489** Whitmire Sponsor: Madden
Relating to educational, juvenile justice, and criminal justice responses to truancy.
(Committee Substitute/Amended)
- SB 1600** Whitmire Sponsor: King, Phil
Relating to the registration of peace officers as private security officers.
(Committee Substitute)
- SB 1616** West Sponsor: Gallego
Relating to the collection, storage, preservation, analysis, retrieval, and destruction of biological evidence.
(Amended)
- SB 1636** Davis Sponsor: McClendon
Relating to the collection, analysis, and preservation of sexual assault or DNA evidence.
(Committee Substitute)
- SB 1649** Watson Sponsor: Margo
Relating to a grant program to support the prosecution of certain crimes.
(Amended)
- SB 1686** Ellis Sponsor: Anchia
Relating to group health benefits coverage for persons wrongfully imprisoned.
(Amended)

SB 1726 Zaffirini Sponsor: Branch
Relating to the development of measurable learning outcomes for undergraduate courses at public institutions of higher education.

SB 1733 Van de Putte Sponsor: Menendez
Relating to the occupational licensing of spouses of members of the military.
(Committee Substitute)

SB 1760 Lucio Sponsor: Oliveira
Relating to notice of water and wastewater requirements before certain sales of certain residential properties.
(Amended)

SJR 9 West Sponsor: Thompson
Proposing a constitutional amendment authorizing the governor to grant a pardon to a person who successfully completes a term of deferred adjudication community supervision.

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

Tuesday, May 24, 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 CONCURRED IN THE SENATE AMENDMENTS TO THE FOLLOWING MEASURES:

HB 109 (139 Yeas, 0 Nays, 2 Present, not voting)

HB 257 (143 Yeas, 0 Nays, 2 Present, not voting)

HB 260 (143 Yeas, 0 Nays, 2 Present, not voting)

HB 268 (142 Yeas, 0 Nays, 2 Present, not voting)

HB 378 (141 Yeas, 0 Nays, 2 Present, not voting)

HB 397 (104 Yeas, 38 Nays, 2 Present, not voting)

HB 592 (140 Yeas, 0 Nays, 1 Present, not voting)

HB 943 (145 Yeas, 0 Nays, 2 Present, not voting)

HB 970 (138 Yeas, 6 Nays, 2 Present, not voting)

HB 1168 (144 Yeas, 3 Nays, 2 Present, not voting)

- HB 1179** (142 Yeas, 0 Nays, 2 Present, not voting)
HB 1201 (144 Yeas, 0 Nays, 2 Present, not voting)
HB 1278 (144 Yeas, 0 Nays, 3 Present, not voting)
HB 1422 (144 Yeas, 0 Nays, 3 Present, not voting)
HB 1615 (142 Yeas, 0 Nays, 2 Present, not voting)
HB 1818 (144 Yeas, 1 Nays, 2 Present, not voting)
HB 1992 (106 Yeas, 36 Nays, 1 Present, not voting)
HB 2135 (144 Yeas, 0 Nays, 2 Present, not voting)
HB 2160 (146 Yeas, 0 Nays, 3 Present, not voting)
HB 2603 (143 Yeas, 0 Nays, 1 Present, not voting)
HB 2904 (142 Yeas, 0 Nays, 2 Present, not voting)
HB 2971 (140 Yeas, 0 Nays, 2 Present, not voting)
HB 3134 (142 Yeas, 0 Nays, 2 Present, not voting)
HB 3329 (138 Yeas, 0 Nays, 2 Present, not voting)
HB 3391 (144 Yeas, 1 Nays, 2 Present, not voting)
HB 3410 (143 Yeas, 0 Nays, 3 Present, not voting)
HB 3616 (143 Yeas, 1 Nays, 3 Present, not voting)
HB 3788 (130 Yeas, 15 Nays, 2 Present, not voting)
HJR 109 (143 Yeas, 0 Nays, 2 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 1711 (non-record vote)

House Conferees: Davis, John - Chair/Anderson, Rodney/Geren/Hardcastle/Miles

HB 1951 (non-record vote)

House Conferees: Taylor, Larry - Chair/Bonnen/Hancock/Smithee/Vo

HB 2499 (non-record vote)

House Conferees: Cook - Chair/Bonnen/Branch/Geren/Mendez

HB 2817 (non-record vote)

House Conferees: Taylor, Larry - Chair/Branch/Burkett/Hernandez Luna/King, Phil

HB 3577 (non-record vote)

House Conferees: Gonzales, Larry - Chair/Schwertner/Scott/Strama/Workman

THE HOUSE HAS GRANTED THE REQUEST OF THE SENATE FOR THE APPOINTMENT OF A CONFERENCE COMMITTEE ON THE FOLLOWING MEASURES:

SB 1087 (non-record vote)

House Conferees: Hilderbran - Chair/Frullo/Gallego/Gooden/King, Tracy O.

THE HOUSE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

SB 201 (143 Yeas, 0 Nays, 2 Present, not voting)

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

GUESTS PRESENTED

Senator Zaffirini was recognized and introduced to the Senate Lizbeth Martinez; her parents, Hervey Martinez and Maria Lesbia Martinez; accompanied by U.S. Border Patrol agents, Jorge Molano and Jesse Sánchez.

The Senate welcomed its guests.

SENATE RESOLUTION 942

Senator Watson offered the following resolution:

SR 942, Recognizing the Austin Jokers Fast Pitch Softball Team on the occasion of its 50th anniversary.

The resolution was again read.

The resolution was previously adopted on Monday, May 9, 2011.

GUESTS PRESENTED

Senator Watson was recognized and introduced to the Senate an Austin Jokers Fast Pitch Softball Team delegation: Tony Castillo, Eric Ramirez, Lucio Govea, and Robbie Abeita.

The Senate welcomed its guests.

REPORT OF COMMITTEE ON NOMINATIONS

Senator Deuell submitted the following report from the Committee on Nominations:

We, your Committee on Nominations, to which were referred the following appointments, have had same under consideration and report them back to the Senate with a recommendation that they be confirmed:

Members, Oversight Committee, Cancer Prevention and Research Institute of Texas: Faith Simmons Johnson, Dallas County; Phil Wilson, Travis County.

District Attorney, 109th Judicial District, Crane and Winkler Counties: Dorothy Ann Holguin, Winkler County.

Members, Governing Board, Texas School for the Blind and Visually Impaired: Anne Lesley Corn, Travis County; Caroline Kupstas Daley, Harris County; Cynthia Ann Phillips Finley, Lubbock County.

Member, Gulf States Marine Fisheries Commission: Troy Bello Williamson, San Patricio County.

Member, Board of Directors, Lavaca-Navidad River Authority: Terri Lynn Green Parker, Jackson County.

Members, Board of Directors, Nueces River Authority: Karen Olsen Bonner, Nueces County; Laura Orman Clader, Atascosa County; Judith Hoepfner Creveling, Nueces County; John W. Galloway, Bee County; Gary A. Jones, Bee County; James Richard Marmion, Dimmit County; Tomas Ramirez, Medina County; Fidel R. Rul, Jim Wells County; Stephen Hamilton Thomas, San Patricio County; Roxana Proctor Tom, Atascosa County.

Members, Product Development and Small Business Incubator Board: Molly Jane Dahm, Jefferson County; Ricardo David Leal, Cameron County; David L. Miller, Lubbock County; Ejike Edward Okpa, Dallas County.

Members, Board of Directors, San Jacinto River Authority: Fredrick Donald Koetting, Montgomery County; Mary Louise Rummell, Montgomery County.

Members, Board of Directors, Sulphur River Basin Authority: Borden E. Bell, Bowie County; Wallace Eugene Kraft, Lamar County; David T. Neeley, Titus County; Michael Edward Russell, Red River County; Patricia A. Wommack, Morris County.

Members, Texas Board of Chiropractic Examiners: Karen Marie Campion, Brazos County; Timothy Clarke McCullough, Galveston County; Kenya Scott Woodruff, Dallas County.

Members, Texas Real Estate Commission: Troy C. Alley, Dallas County; Billy Lawrence Jones, Bell County; Weston Martinez, Bexar County.

Members, Texas State Board of Examiners of Marriage and Family Therapists: Rick Allan Bruhn, Walker County; George Franklin Francis, Williamson County; Sean Benjamin Stokes, Denton County.

Members, Texas State Board of Public Accountancy: John Coalter Baker, Travis County; John Richard Broaddus, El Paso County; Jonathan Ballenger Cluck, Kendall County; Rocky Lynn Duckworth, Harris County; Catherine Rodewald, Dallas County.

Members, Board of Regents, University of North Texas System: Michael R. Bradford, Midland County; Steve Mitchell, Dallas County; George B. Ryan, Dallas County.

Members, Board of Directors, Upper Guadalupe River Authority: Harold James Danford, Kerr County; Lonnie Patricia Holloway, Kerr County.

NOTICE OF CONSIDERATION OF NOMINATIONS

Senator Deuell gave notice that he would tomorrow at the conclusion of morning call submit to the Senate for consideration nominations to agencies, boards, and commissions of the state.

SENATE RESOLUTION 1145

Senator Williams offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to recognize the completion of the first documentary film made about the life of Sam Houston; and

WHEREAS, The documentary chronicles his life from his birth in Virginia through his death in Texas; it was written by Sam Houston's biographer, James L. Haley; and

WHEREAS, The film includes nearly 300 restored archival images and historical documents, as well as original artwork that was commissioned specifically for the project; the filmmakers interviewed numerous prominent subject matter experts to gather material for the project; and

WHEREAS, The documentary was filmed at 29 locations in Virginia, Tennessee, and Texas, at sites where the events being portrayed actually took place; over 200 reenactors participated in the project, and the film includes many newly discovered images and the only existing images of Sam and Margaret Houston together; and

WHEREAS, The project includes a massive website, which has been described by Dr. Patrick Nolan, director of the Sam Houston Memorial Museum, as the largest collection of digital information about Sam Houston that has ever been assembled; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 82nd Legislature, hereby extend congratulations to all who participated in the creation of this unique and historically valuable documentary on the life of Sam Houston; and, be it further

RESOLVED, That a copy of this Resolution be prepared in honor of this exceptional project.

SR 1145 was read and was adopted without objection.

GUESTS PRESENTED

Senator Williams was recognized and introduced to the Senate Denton Eugene Florian, Mary Lou Florian, Daniel Alan Florian, Melinda Gayle Florian, and Sam Houston IV.

The Senate welcomed its guests.

CONCLUSION OF MORNING CALL

The Presiding Officer at 11:05 a.m. announced the conclusion of morning call.

GUESTS PRESENTED

Senator Zaffirini was recognized and introduced to the Senate Ruiz Elementary Courtesy Service Club students, accompanied by their teacher, Susana Sarmiento.

The Senate welcomed its guests.

**COMMITTEE SUBSTITUTE
HOUSE BILL 300 ON SECOND READING**

On motion of Senator Nelson and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 300** at this time on its second reading:

CSHB 300, Relating to the privacy of protected health information; providing administrative and civil penalties.

The bill was read second time.

Senator Nelson offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 300** (Senate Committee Report) by striking page 5, line 69 through page 6, line 7 and renumbering all subsequent sections as necessary.

The amendment to **CSHB 300** was read and was adopted by a viva voce vote.

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

Senator Hinojosa offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSHB 300** (senate committee printing) as follows:

(1) In SECTION 7 of the bill, strike proposed Sections 181.201(b) and (b-1), Health and Safety Code (page 4, lines 18 through 45), and substitute the following:

(b) In addition to the injunctive relief provided by Subsection (a), the attorney general may institute an action for civil penalties against a covered entity for a violation of this chapter. A civil penalty assessed under this section may not exceed:

(1) \$5,000 [~~\$3,000~~ for each violation that occurs in one year, regardless of how long the violation continues during that year, committed negligently;

(2) \$25,000 for each violation that occurs in one year, regardless of how long the violation continues during that year, committed knowingly or intentionally;
or

(3) \$250,000 for each violation in which the covered entity knowingly or intentionally uses protected health information for financial gain.

(b-1) The total amount of a penalty assessed against a covered entity under Subsection (b) in relation to a violation or violations of Section 181.154 may not exceed \$250,000 annually if the court finds that the disclosure was made only to another covered entity and only for a purpose described by Section 181.154(c) and the court finds that:

(1) the protected health information disclosed was encrypted or transmitted using encryption technology designed to protect against improper disclosure;

(2) the recipient of the protected health information did not use or release the protected health information; or

(3) at the time of the disclosure of the protected health information, the covered entity had developed, implemented, and maintained security policies, including the education and training of employees responsible for the security of protected health information.

(2) In SECTION 10 of the bill, in added Section 181.206(a)(1), Health and Safety Code (page 5, line 48), between "entity" and "in", insert ", as that term is defined by 45 C.F.R. Section 160.103,".

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

SECTION _____. Section 522.002(b), Business & Commerce Code, is amended to read as follows:

(b) An offense under this section is a Class B misdemeanor, except that the offense is a state jail felony if the information accessed, read, scanned, stored, or transferred was protected health information as defined by the Health Insurance Portability and Accountability Act and Privacy Standards, as defined by Section 181.001, Health and Safety Code.

SECTION _____. The change in law made by Section 522.002(b), Business & Commerce Code, as amended by this Act, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect at the time the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

The amendment to **CSHB 300** was read and was adopted by a viva voce vote.

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

Senator Uresti offered the following amendment to the bill:

Floor Amendment No. 3

Amend **CSHB 300** (senate committee printing) in SECTION 18 of the bill as follows:

- (1) In proposed Subsection (b)(1)(B) (page 8, line 5), strike "and".
- (2) In proposed Subsection (b)(1), following Paragraph (C) (page 8, between lines 7 and 8), insert:
 - (D) at least one pharmacist; and

The amendment to **CSHB 300** was read and was adopted by a viva voce vote.

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

Senator Deuell offered the following amendment to the bill:

Floor Amendment No. 4

Amend **CSHB 300** by adding a new SECTION 4 and renumbering subsequent SECTIONS appropriately:

SECTION 4. Subchapter B, Chapter 181, Health and Safety Code, is amended by adding Section 181.059 as follows:

Sec. 181.059. CRIME VICTIM COMPENSATION. This Chapter does not apply to any person or entity in connection with providing, administering, supporting, or coordinating any of the benefits regarding compensation to victims of crime as provided by Subchapter B, Article 56, Code of Criminal Procedure.

The amendment to **CSHB 300** was read and was adopted by a viva voce vote.

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

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

CSHB 300 as amended was passed to third reading by a viva voce vote.

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 300 ON THIRD READING**

Senator Nelson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 300** be placed on its third reading and final passage.

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

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 1904 ON SECOND READING**

On motion of Senator Estes and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 1904** at this time on its second reading:

CSHB 1904, Relating to the deadlines for write-in candidates for the office of county or precinct chair of a political party.

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

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 1904 ON THIRD READING**

Senator Estes moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1904** be placed on its third reading and final passage.

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

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 3090 ON SECOND READING**

On motion of Senator Nichols and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 3090** at this time on its second reading:

CSHB 3090, Relating to the frequency of water audits by certain retail public utilities.

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

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 3090 ON THIRD READING**

Senator Nichols moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 3090** be placed on its third reading and final passage.

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

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 2284 ON SECOND READING**

On motion of Senator Deuell and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 2284** at this time on its second reading:

CSHB 2284, Relating to the practice of architecture and engineering.

The bill was read second time.

Senator Deuell offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 2284** (Senate Committee printing) on page 4, line 3 by striking "April" and inserting "January"

The amendment to **CSHB 2284** was read and was adopted by a viva voce vote.

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

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

CSHB 2284 as amended was passed to third reading by a viva voce vote.

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 2284 ON THIRD READING**

Senator Deuell moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2284** be placed on its third reading and final passage.

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

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 968 ON SECOND READING**

On motion of Senator Watson and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 968** at this time on its second reading:

CSHB 968, Relating to expulsion from school or placement in a disciplinary alternative education program.

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

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 968 ON THIRD READING**

Senator Watson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 968** 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 1241 ON SECOND READING

On motion of Senator Harris and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1241** at this time on its second reading:

HB 1241, Relating to surety bond requirements for reserve deputy constables.

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 1241 ON THIRD READING

Senator Harris moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1241** 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 90 ON SECOND READING

On motion of Senator Birdwell and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 90** at this time on its second reading:

HB 90, Relating to eligibility to obtain a driver's license.

The bill was read second time.

Senator Birdwell offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 90** (senate committee printing) as follows:

(1) Strike SECTIONS 2, 3, and 4 of the bill, amending Sections 521.201 and 521.223, Transportation Code, and adding Section 521.207, Transportation Code (page 1, line 12, through page 2, line 49), and substitute the following:

SECTION _____. Section 521.223(f), Transportation Code, is amended to read as follows:

(f) In the manner provided by Subchapter N, the department shall ~~[may]~~ suspend a license issued under this section if the holder of the license is convicted of two or more [a] moving violations committed within a 12-month period [violation].

(2) Strike SECTION 6 of the bill (page 2, lines 52-57).

(3) Renumber SECTIONS of the bill accordingly.

The amendment to **HB 90** 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 Birdwell and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 90 as amended was passed to third reading by a viva voce vote.

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

HOUSE BILL 90 ON THIRD READING

Senator Birdwell moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 90** 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 1129 ON SECOND READING

Senator Hegar moved to suspend the regular order of business to take up for consideration **HB 1129** at this time on its second reading:

HB 1129, Relating to a study by the attorney general of the effects on state law and authority of certain international and other agreements and bodies.

The motion prevailed.

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

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

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

Nays: Zaffirini.

HOUSE BILL 1129 ON THIRD READING

Senator Hegar moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1129** be placed on its third reading and final passage.

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

Nays: Zaffirini.

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 1768 ON SECOND READING**

Senator Hinojosa moved to suspend the regular order of business to take up for consideration **CSHB 1768** at this time on its second reading:

CSHB 1768, Relating to the regulation of roadside vendors and solicitors in certain counties.

The motion prevailed.

Senator Fraser 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: Fraser.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1768 ON THIRD READING**

Senator Hinojosa moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1768** be placed on its third reading and final passage.

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

Nays: Fraser.

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

HOUSE BILL 2006 ON SECOND READING

On motion of Senator Huffman and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2006** at this time on its second reading:

HB 2006, Relating to the release of a photograph of a police officer and access to records maintained by internal investigative divisions in certain municipalities.

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 2006 ON THIRD READING

Senator Huffman moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2006** 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 3815 ON SECOND READING

On motion of Senator Seliger and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 3815** at this time on its second reading:

HB 3815, Relating to the authority of the Ector County Hospital District to employ and commission peace officers.

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 3815 ON THIRD READING

Senator Seliger moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3815** 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 3439 ON SECOND READING

On motion of Senator Rodriguez and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 3439** at this time on its second reading:

HB 3439, Relating to missing children; providing a criminal penalty.

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 3439 ON THIRD READING

Senator Rodriguez moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3439** 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 149 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 149** at this time on its second reading:

HB 149, Relating to the appointment of a parenting coordinator or parenting facilitator in a suit affecting the parent-child relationship.

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 149 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 149** 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.

GUESTS PRESENTED

Senator Davis was recognized and introduced to the Senate Honorary Senate Page Dorothy Isgur, accompanied by her father, Ben Isgur.

The Senate welcomed its guests.

COMMITTEE SUBSTITUTE HOUSE BILL 2357 ON SECOND READING

On motion of Senator Williams and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 2357** at this time on its second reading:

CSHB 2357, Relating to motor vehicles; providing penalties.

The bill was read second time.

Senator Williams offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 2357** (senate committee printing) as follows:

(1) In SECTION 44 of the bill, strike added Sections 501.1001(d), (e), and (f), Transportation Code (page 20, lines 21-34), and substitute the following:

(d) This subsection applies only to a motor vehicle in this state that is a self-insured motor vehicle and that is damaged to the extent it becomes a nonrepairable or salvage motor vehicle. The owner of a motor vehicle to which this subsection applies shall submit to the department before the 31st business day after the date of the damage, in a manner prescribed by the department, a statement that the motor vehicle was self-insured and damaged. When the owner submits a report, the owner shall surrender the ownership document and apply for a nonrepairable vehicle title, nonrepairable record of title, salvage vehicle title, or salvage record of title.

(2) In SECTION 70 of the bill, strike added Sections 501.176(b) and (c), Transportation Code (page 29, lines 45-58), and substitute the following:

(b) The department may collect a fee for processing a title or registration payment by electronic funds transfer, credit card, or debit card in an amount not to exceed the amount of the charges incurred by the department to process the payment.

(c) The department may collect the fee set under Section 2054.2591, Government Code, from a person making a payment by electronic funds transfer, credit card, or debit card through the online project implemented under Section 2054.252, Government Code.

(3) In SECTION 108 of the bill, strike added Sections 502.191(c) and (d), Transportation Code (page 50, lines 2-15), and substitute the following:

(c) The department may collect a fee for processing a payment by electronic funds transfer, credit card, or debit card in an amount not to exceed the amount of the charges incurred by the department to process the payment.

(d) The department may collect the fee set under Section 2054.2591, Government Code, from a person making a payment by electronic funds transfer, credit card, or debit card through the online project implemented under Section 2054.252, Government Code.

(4) In SECTION 179 of the bill, strike amended Section 504.3011, Transportation Code (page 76, lines 10-22), and substitute the following:

Sec. 504.3011. DESIGN OF CERTAIN LICENSE PLATES FOR THE MILITARY. ~~[(a) License plates issued under Section 504.303 must at a minimum bear a color depiction of the emblem of the appropriate branch of the United States armed forces.~~

~~[(b) License plates issued under Section 504.308(a) or 504.315(e), (f), or (g) must at a minimum bear a color depiction of the appropriate medal.~~

~~[(e)]~~ The department shall design military license plates that:

(1) bear a color depiction of the emblem of the appropriate branch of the United States armed forces or a color depiction of the appropriate medal as provided by the United States Department of Defense; and

(2) include the words "Honorably Discharged" for license plates issued to former members of the United States armed forces [to which this section applies in consultation with veterans organizations].

(5) In SECTION 234 of the bill (page 87, line 37), strike "This" and substitute "Except as otherwise provided by this Act, this".

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

SECTION _____. Section 504.301, Transportation Code, is amended to read as follows:

Sec. 504.301. PROVISIONS GENERALLY APPLICABLE TO MILITARY SPECIALTY LICENSE PLATES. (a) Unless expressly provided by this subchapter or department rule:

(1) the department shall design specialty license plates for the military; and

(2) a person is not eligible to be issued a specialty license plate under this subchapter if the person was discharged from the armed forces under conditions less than honorable.

(b) Notwithstanding any other provision of this subchapter, the department may design the wording on a specialty license plate authorized by this subchapter to enhance the legibility and reflectivity of the license plate.

SECTION _____. Subchapter D, Chapter 504, Transportation Code, is amended by adding Section 504.317 to read as follows:

Sec. 504.317. SURVIVING SPOUSES OF DISABLED VETERANS SPECIALTY LICENSE PLATES. (a) In this section, "surviving spouse" means the individual married to a disabled veteran at the time of the veteran's death.

(b) The department shall issue specialty license plates for surviving spouses of disabled veterans of the United States armed forces.

SECTION _____. (a) Section 504.501(b), Transportation Code, as effective September 1, 2011, is amended to read as follows:

(b) A person eligible for the license plates may instead use license plates that were issued by this state in the same year as the model year of the vehicle and are approved by the department [~~if the plates are approved for the vehicle before January 1, 2011~~]. The department may require the attachment of a registration insignia to the license plate in a manner that does not affect the display of information originally on the license plate.

(b) This section takes effect September 1, 2011.

SECTION _____. (a) Subchapter J, Chapter 504, Transportation Code, is amended by adding Section 504.855 to read as follows:

Sec. 504.855. EXPIRATION. This subchapter expires August 31, 2014.

(b) Notwithstanding the expiration of Subchapter J, Chapter 504, Transportation Code, the Texas Department of Motor Vehicles may continue to operate under the terms of a contract entered into before the expiration of Subchapter J, Chapter 504, Transportation Code, until the expiration date specified in the contract.

SECTION _____. (a) Subchapter H, Chapter 2302, Occupations Code, is amended by adding Section 2302.354 to read as follows:

Sec. 2302.354. ADMINISTRATIVE PENALTY. (a) The department may impose an administrative penalty against a person licensed under this chapter who violates this chapter or a rule or order adopted under this chapter.

(b) The penalty may not be less than \$50 or more than \$1,000, and each day a violation continues or occurs is a separate violation for the purpose of imposing a penalty. The amount of the penalty shall be based on:

(1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of the violation;

(2) the economic harm caused by the violation;

(3) the history of previous violations;

(4) the amount necessary to deter a future violation;

(5) efforts to correct the violation; and

(6) any other matter that justice requires.

(c) The person may stay enforcement during the time the order is under judicial review if the person pays the penalty to the court clerk or files a supersedeas bond with the court in the amount of the penalty. A person who cannot afford to pay the penalty or file the bond may stay enforcement by filing an affidavit in the manner

required by the Texas Rules of Civil Procedure for a party who cannot afford to file security for costs, subject to the right of the department to contest the affidavit as provided by those rules.

(d) A proceeding to impose an administrative penalty is subject to Chapter 2001, Government Code.

(b) Section 2302.354, Occupations Code, as added by this section, applies only to a violation of Chapter 2302, Occupations Code, or a rule or order of the Texas Department of Motor Vehicles adopted under that chapter, committed on or after the effective date of this section. A violation committed before the effective date of this section is governed by the law in effect when the violation was committed, and the former law is continued in effect for that purpose.

(c) This section takes effect September 1, 2011.

The amendment to **CSHB 2357** was read and was adopted by a viva voce vote.

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

Senator Williams offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSHB 2357** (senate committee report) as follows:

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

SECTION _____. Section 681.005, Transportation Code, is amended to read as follows:

Sec. 681.005. DUTIES OF COUNTY ASSESSOR-COLLECTOR. Each county assessor-collector shall send to the department[-

~~(+) each fee collected under Section 681.003, to be deposited in the state highway fund to defray the cost of providing the disabled parking placard[-and~~

~~(2) a copy of each application for a disabled parking placard].~~

(2) On page 87, line 22, insert "and" following the semicolon.

(3) On page 87, line 23, strike the semicolon and substitute a period.

(4) On page 87, strike lines 24 and 25.

The amendment to **CSHB 2357** was read and was adopted by a viva voce vote.

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

Senator Wentworth offered the following amendment to the bill:

Floor Amendment No. 3

Amend **CSHB 2357** (senate committee printing) in SECTION 163 of the bill by striking amended Sections 502.491(b) and (c), Transportation Code (page 70, lines 38-49) and substituting:

(b) On a sale or transfer of a motor vehicle in which neither party holds a general distinguishing number issued under Chapter 503, the [A license plate removed from a motor vehicle under Subsection (a) or (a-1) must be:

~~(1) disposed of in the manner specified by the department; or~~

~~(2) transferred to another vehicle owned by the seller or transferor as provided by Section 502.452.~~

~~[(e) The]~~ part of the registration period remaining at the time of the sale or transfer shall continue with the vehicle being sold or transferred and does not transfer with the license plates or registration validation insignia. To continue the remainder of the registration period, the purchaser or transferee must file the documents required under Section 501.145 ~~[520.034]~~.

(c) On the sale or transfer of a motor vehicle to a dealer, as defined by Section 503.001, who holds a general distinguishing number issued under Chapter 503, the registration period remaining at the time of the sale or transfer expires at the time of the sale or transfer. On the sale of a used motor vehicle by a dealer, the dealer shall issue to the buyer new registration documents for an entire registration year.

The amendment to **CSHB 2357** was read and was adopted by a viva voce vote.

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

Senator Wentworth offered the following amendment to the bill:

Floor Amendment No. 4

Amend **CSHB 2357** (senate committee report) as follows:

(1) In SECTION 174 of the bill, in amended Section 504.003(c), (redesignated as 504.009(c)) Transportation Code (page 74, line 32), strike "September 1" and substitute "November 19 ~~[September 1]~~".

(2) In SECTION 174 of the bill, in amended Section 504.003(c-1), (redesignated as 504.009(c-1)) Transportation Code (page 74, line 44), strike "September 1" and substitute "November 19 ~~[September 1]~~".

(3) Strike the recital to SECTION 199 of the bill, amending Section 504.614, Transportation Code (page 79, lines 11 and 12), and substitute the following:

Section 504.614, Transportation Code, is amended by amending Subsection (a) and adding Subsection (b-1) to read as follows:

(4) In SECTION 199 of the bill, after amended Section 504.614(a), Transportation Code (page 79, between lines 24 and 25), add the following:

(b-1) A public entity that receives money under Subsection (b) may contract with the private vendor under Section 504.6011 to distribute the entity's portion of the money in a manner other than that described by Subsection (b).

(5) In the recital to SECTION 207 of the bill (page 80, line 51), strike "504.801(a) and (b)" and substitute "504.801(a), (b), (d), and (d-1)".

(6) In SECTION 207 of the bill, after amended Section 504.801(b), Transportation Code (page 80, immediately following line 69), add the following:

(d) The fee for issuance of license plates created under this subchapter before November 19 ~~[September 1]~~, 2009, is \$30 unless the department sets a higher fee. This subsection does not apply to a specialty license plate marketed and sold by a private vendor at the request of the specialty license plate sponsor.

(d-1) The fee for issuance of license plates created under this subchapter on or after November 19 ~~[September 1]~~, 2009, is the amount established under Section 504.851.

(7) Strike SECTIONS 208 and 209 of the bill, amending Sections 504.851 and 504.853, Transportation Code (page 81, lines 1 through 15), and substitute the following:

SECTION 208. Section 504.851, Transportation Code, is amended by amending Subsections (a-2), (c), (e), (f), and (h) and adding Subsections (a-3) and (m) to read as follows:

(a-2) Specialty license plates authorized for marketing and sale under Subsection (a) may be personalized and must include:

(1) specialty license plates created under Subchapters G and I on or after November 19 ~~September 1~~, 2009; and

(2) at the request of the specialty license plate sponsor, an existing specialty license plate created under Subchapters G and I before November 19 ~~September 1~~, 2009.

(a-3) The department may contract with the private vendor for the vendor to:

(1) host all or some of the specialty license plates on the vendor's website;

(2) process the purchase of specialty license plates hosted on the vendor's website and pay any additional transaction cost; and

(3) share in the personalization fee for the license plates hosted on the vendor's website.

(c) The board by rule shall establish the fees for the issuance or renewal of souvenir license plates, specialty license plates, or souvenir or specialty license plates that are personalized that are marketed and sold by the private vendor or hosted on the private vendor's website. The state's portion of the personalization fee may not be less than \$40 for each year issued. Other fees [Fees] must be reasonable and not less than the amounts necessary to allow the department to recover all reasonable costs to the department associated with the evaluation of the competitive sealed proposals received by the department and with the implementation and enforcement of the contract, including direct, indirect, and administrative costs. A fee established under this subsection is in addition to:

(1) the registration fee and any optional registration fee prescribed by this chapter for the vehicle for which specialty license plates are issued;

(2) any additional fee prescribed by this subchapter for the issuance of specialty license plates for that vehicle; and

(3) any additional fee prescribed by this subchapter for the issuance of personalized license plates for that vehicle.

(e) The portion of a contract with a private vendor regarding the marketing and sale of personalized license plates is payable only from amounts derived from the collection of the fee established under Subsection (b). The portion of a contract with a private vendor regarding the marketing, hosting, and sale of souvenir license plates, specialty license plates, or souvenir or specialty license plates that are personalized under Section 504.102 is payable only from amounts derived from the collection of the fee established under Subsection (c).

(f) The department may approve new design and color combinations for personalized or specialty license plates that are marketed and sold by a private vendor under a contract entered into with the private vendor. Each approved license plate design and color combination remains the property of the department.

(h) Subject to the limitations provided by Subsections (g) and (g-1), the department may disapprove a design, cancel a license plate, or require the discontinuation of a license plate design or color combination that is marketed, hosted, or ~~and~~ sold by a private vendor under contract at any time if the department determines that the disapproval, cancellation, or discontinuation is in the best interest of this state or the motoring public.

(m) If the private vendor ceases operation:

(1) the program may be operated temporarily by the department under new agreements with the license plate sponsors until another vendor is selected and begins operation; and

(2) the private vendor's share of the revenue is deposited to the credit of the general revenue fund.

SECTION 209. Section 504.853, Transportation Code, is amended to read as follows:

Sec. 504.853. SPECIALTY AND PERSONALIZED LICENSE PLATES ISSUED BEFORE NOVEMBER 19 [SEPTEMBER 1], 2009. (a) A specialty or personalized license plate issued before November 19 [September 1], 2009, may be issued for a subsequent registration period only if the applicant submits an application and pays the required fee for the applicable registration period. A person who is issued a personalized license plate has first priority on that license plate for each subsequent registration period for which the person submits a new application for that plate.

(b) Unless the board by rule adopts a higher fee or the license plate is not renewed annually, the [The] fee for issuance of a [personalized] license plate issued before November 19 [September 1], 2009, is:

(1) the fee provided for in Section 504.601 for a specialty license plate; and

(2) \$40 for a personalized license plate[~~, unless the director adopts by rule a higher fee].~~

(c) A person who is issued a specialty or personalized license plate by the department before November 19 [September 1], 2009, may:

(1) submit an application for the plate under Subsection (a) and pay the required fee for each subsequent registration period under Subsection (b); or

(2) purchase through the private vendor a license to display the alphanumeric pattern on a license plate for any term allowed by law.

(d) The department may not issue a replacement set of personalized license plates to the same person before the period set by rule [sixth anniversary of the date of issuance] unless the applicant for issuance of replacement plates pays an additional fee of \$30.

(e) Of each fee collected by the department under Subsection (b)(2) [this section]:

(1) \$1.25 shall be used by the department to defray the cost of administering this section; and

(2) the remainder shall be deposited to the credit of the general revenue fund.

(8) Insert the following appropriately numbered subdivisions in SECTION 231 of the bill and renumber subsequent subdivisions of that SECTION accordingly:

() Section 504.851(k);

() Section 504.854(c);

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

SECTION _____. Subchapter B, Chapter 504, Transportation Code, is amended by adding Section 504.101 to read as follows:

Sec. 504.101. PERSONALIZED LICENSE PLATES. The department shall issue personalized license plates, including those sold by the private vendor under a contract with the department as provided by Section 504.851.

SECTION _____. Section 504.6011, Transportation Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) The sponsor of a specialty license plate [~~authorized to be issued under this subchapter before September 1, 2009,~~] may contract with the private vendor authorized under Subchapter J for the marketing and sale of the specialty license plate.

(d) A sponsor of a specialty license plate authorized to be issued under this subchapter before November 19, 2009, may reestablish its specialty license plate under Sections 504.601 and 504.702 and be credited its previous deposit with the department if a contract entered into by the sponsor under Subsection (a) terminates.

SECTION _____. The heading to Section 504.802, Transportation Code, is amended to read as follows:

Sec. 504.802. MARKETING AND SALE BY PRIVATE VENDOR OF SPECIALTY LICENSE PLATES [CREATED BEFORE SEPTEMBER 1, 2009].

SECTION _____. Section 504.802, Transportation Code, is amended by amending Subsections (a) and (c) and adding Subsection (d) to read as follows:

(a) A sponsor of a specialty license plate created under this subchapter [~~before September 1, 2009,~~] may contract with the private vendor authorized under Subchapter J for the marketing and sale of the specialty license plate.

(c) Notwithstanding any other law, from each fee received from the issuance of a specialty license plate marketed and sold by the private vendor under this section, the department shall:

(1) deduct the administrative costs described by Section 504.801(e)(1);

(2) deposit the portion of the fee for the sale of the plate that the state would ordinarily receive under the contract described by Section 504.851(a) to the credit of:

(A) the specialty license plate fund, if the sponsor nominated a state agency to receive the funds; ~~or~~

(B) the general revenue fund, if the sponsor did not nominate a state agency to receive the funds or if there is no sponsor; or

(C) for a license plate issued under Section 504.614, the public entity that provides or provided funds for the professional sports team's facility; and

(3) pay to the private vendor the remainder of the fee.

(d) A sponsor of a specialty license plate may reestablish its specialty license plate under Sections 504.601 and 504.702 and be credited its previous deposit with the department if a contract entered into by the sponsor under Subsection (a) terminates.

SECTION _____. Sections 504.854(a) and (b), Transportation Code, are amended to read as follows:

- (a) The board by rule [~~private vendor~~] may provide for the private vendor to:
- (1) sell at auction a license to display a unique alphanumeric pattern on a license plate for a period set by board rule;
 - (2) reserve an unissued alphanumeric pattern from the department for purposes of auctioning a license to display the pattern for a period set by board rule; and
 - (3) purchase from a customer an unexpired license to display an alphanumeric pattern for purposes of auction by the vendor.

(b) A [~~Only a~~] license to display an alphanumeric pattern purchased under this section [~~or a license to display an alphanumeric pattern sold by the private vendor under Section 504.853~~] may be transferred to another person without payment of the fee provided by Section 504.855. [~~The transferee is entitled to the same rights and privileges as the transferor.~~]

SECTION _____. Subchapter J, Chapter 504, Transportation Code, is amended by adding Section 504.855 to read as follows:

Sec. 504.855. TRANSFERABILITY OF CERTAIN PATTERNS. The board by rule may:

- (1) authorize a person who purchases a license to display an alphanumeric pattern for a period of five years or more to transfer the license; and
- (2) establish a transfer fee to be distributed in accordance with the contract with the private vendor.

The amendment to **CSHB 2357** was read and was adopted by a viva voce vote.

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

Senator Lucio offered the following amendment to the bill:

Floor Amendment No. 5

Amend **CSHB 2357** (senate committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. The heading to Section 411.0095, Government Code, is amended to read as follows:

Sec. 411.0095. VEHICLE [~~THEFT~~] CHECKPOINTS NEAR TEXAS-MEXICO [~~AT~~] BORDER [~~CROSSING~~].

SECTION _____. Sections 411.0095(a), (b), (c), and (d), Government Code, are amended to read as follows:

(a) The department may establish [~~a program for the purpose of establishing~~] border [~~crossing~~] checkpoints to prevent:

- (1) stolen vehicles, farm tractors or implements, construction equipment, aircraft, or watercraft, in violation of Section 31.03, Penal Code, or Sec. 501.153, Transportation Code, from entering Mexico.

The established checkpoint may also prevent the unlawful possession or unlawful and imminent movement or transfer from this state to Mexico of:

- (1) firearms, in violation of Section 46.14, Penal Code;

(2) controlled substances, in violation of Chapter 481, Health and Safety Code;

(3) currency, in violation of Section 34.02, Penal Code;

(b) A checkpoint may be established under Subsection (a) if the checkpoint is:

(1) located within 250 yards of a federally designated crossing facility located at or near the actual boundary between this state and Mexico;

(2) located on a public highway or street leading directly to an international border crossing;

(3) designed to stop only traffic bound for Mexico; and

(4) operated in such a manner as to prevent firearms, controlled substances, currency, [stop only] vehicles, tractors or implements, equipment, aircraft, or watercraft that [for which] law enforcement authorities have probable cause to believe are unlawfully possessed or being unlawfully and imminently transferred or moved from this state to [is stolen and bound for] Mexico from being possessed or transferred or moved to Mexico.

(c) The department may establish ~~[the]~~ border checkpoints ~~[crossing checkpoint program]~~ in conjunction with federal and local law enforcement authorities. The department and federal and local law enforcement authorities may share the cost of staffing the checkpoints.

(d) The department shall establish procedures governing the encounter between the driver and the peace officers operating the checkpoint that ensure that any intrusion on the driver is minimized and that the inquiries made are reasonably related to the purpose of the checkpoint. ~~[A peace officer at the checkpoint may not direct a driver or a passenger in a motor vehicle to leave the vehicle or move the vehicle off the roadway unless the officer has reasonable suspicion or probable cause to believe that the person committed or is committing an offense. However, a peace officer may require that each motor vehicle passing through the checkpoint be diverted to a location immediately adjacent to the roadway, if desirable, to ensure safety.]~~

SECTION _____. Effective September 1, 2015, Section 411.0095, Government Code, is amended to read as follows:

Sec. 411.0095. VEHICLE THEFT CHECKPOINTS AT BORDER CROSSING. (a) The department may establish a program for the purpose of establishing border crossing checkpoints to prevent stolen vehicles, farm tractors or implements, construction equipment, aircraft, or watercraft from entering Mexico.

(b) A checkpoint may be established under Subsection (a) if the checkpoint is:

(1) located within 250 yards of a federally designated crossing facility located at or near the actual boundary between this state and Mexico;

(2) located on a public highway or street leading directly to an international border crossing;

(3) designed to stop only traffic bound for Mexico; and

(4) operated in such a manner as to stop only vehicles, tractors or implements, equipment, aircraft, or watercraft for which law enforcement authorities have probable cause to believe is stolen and bound for Mexico.

(c) The department may establish the border crossing checkpoint program in conjunction with local law enforcement authorities. The department and local law enforcement authorities may share the cost of staffing the checkpoints.

(d) The department shall establish procedures governing the encounter between the driver and the peace officers operating the checkpoint that ensure that any intrusion on the driver is minimized and that the inquiries made are reasonably related to the purpose of the checkpoint. A peace officer at the checkpoint may not direct a driver or a passenger in a motor vehicle to leave the vehicle or move the vehicle off the roadway unless the officer has reasonable suspicion or probable cause to believe that the person committed or is committing an offense. However, a peace officer may require that each motor vehicle passing through the checkpoint be diverted to a location immediately adjacent to the roadway, if desirable, to ensure safety.

(e) In this section:

(1) "Motor vehicle" and "vehicle" have the meanings assigned to those terms by Section 541.201, Transportation Code.

(2) "Watercraft" has the meaning assigned by Section 49.01, Penal Code.

The amendment to **CSHB 2357** was read and was adopted by a viva voce vote.

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

Senator Hegar offered the following amendment to the bill:

Floor Amendment No. 6

Amend **CSHB 2357** (senate committee report) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. The heading to Subchapter F, Chapter 551, Transportation Code, is amended to read as follows:

SUBCHAPTER F. GOLF CARTS AND UTILITY VEHICLES

SECTION _____. Section 551.401, Transportation Code, is amended to read as follows:

Sec. 551.401. DEFINITIONS. In this subchapter:

(1) "Golf [~~golf~~] cart" and "public highway" have the meanings assigned by Section 502.001.

(2) "Utility vehicle" means a motor vehicle that is not a golf cart or lawn mower and is:

(A) equipped with side-by-side seating for the use of the operator and a passenger;

(B) designed to propel itself with at least four tires in contact with the ground;

(C) designed by the manufacturer for off-highway use only; and

(D) designed by the manufacturer primarily for utility work and not for recreational purposes.

SECTION _____. The heading to Section 551.404, Transportation Code, is amended to read as follows:

Sec. 551.404. OPERATION IN MUNICIPALITIES AND CERTAIN COUNTIES.

SECTION _____. Section 551.404, Transportation Code, is amended by adding Subsection (a-1) and amending Subsection (b) to read as follows:

(a-1) In addition to the operation authorized by Section 551.403, the commissioners court of a county that borders or contains a portion of the Guadalupe River and contains a part of a barrier island that borders the Gulf of Mexico may allow an operator to operate a golf cart or utility vehicle on all or part of a public highway that:

(1) is located in the unincorporated area of the county; and

(2) has a speed limit of not more than 35 miles per hour.

(b) A golf cart or utility vehicle operated under this section [~~Subsection (a)~~] must have the following equipment:

(1) headlamps;

(2) taillamps;

(3) reflectors;

(4) parking brake; and

(5) mirrors.

The amendment to **CSHB 2357** was read and was adopted by the following vote: Yeas 16, Nays 10.

Yeas: Birdwell, Davis, Ellis, Eltife, Gallegos, Hegar, Hinojosa, Huffman, Jackson, Lucio, Nichols, Rodriguez, Seliger, Uresti, Van de Putte, Zaffirini.

Nays: Duncan, Estes, Fraser, Harris, Ogden, Watson, Wentworth, West, Whitmire, Williams.

Absent: Carona, Deuell, Nelson, Patrick, Shapiro.

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

CSHB 2357 as amended was passed to third reading by a viva voce vote.

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

COMMITTEE SUBSTITUTE HOUSE BILL 2357 ON THIRD READING

Senator Williams moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2357** 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 3352 ON SECOND READING

On motion of Senator Gallegos and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 3352** at this time on its second reading:

HB 3352, Relating to the sale of park land owned by certain municipalities.

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 3352 ON THIRD READING

Senator Gallegos moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3352** 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.

(President Pro Tempore Ogden in Chair)

**COMMITTEE SUBSTITUTE
HOUSE BILL 3033 ON SECOND READING**

On motion of Senator Watson and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 3033** at this time on its second reading:

CSHB 3033, Relating to retirement under public retirement systems for employees of certain municipalities.

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

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 3033 ON THIRD READING**

Senator Watson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 3033** 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 3829 ON SECOND READING

On motion of Senator Birdwell and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 3829** at this time on its second reading:

HB 3829, Relating to gifts and donations to the McLennan County Juvenile Board.

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 3829 ON THIRD READING

Senator Birdwell moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3829** 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 2367 ON SECOND READING

On motion of Senator Uresti and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2367** at this time on its second reading:

HB 2367, Relating to the creation of an advisory panel to study certain parental rights relating to possession of or access to the parent's child.

The bill was read second time.

Senator Uresti offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 2367** (senate committee printing) in SECTION 1 of the bill as follows:

(1) Strike proposed Subsections (c) and (d) of that section (page 1, lines 40-48) and substitute the following:

(c) The advisory panel consists of nine members appointed by the governor.

(d) When making initial appointments under Subsection (c), the governor shall designate one of the appointees as presiding officer of the advisory panel.

(2) Strike proposed Subsection (g) of that section (page 1, lines 55-57) and substitute the following:

(g) The governor shall appoint members to the panel not later than December 31, 2011.

The amendment to **HB 2367** 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.

HB 2367 as amended was passed to third reading by a viva voce vote.

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

HOUSE BILL 2367 ON THIRD READING

Senator Uresti moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2367** 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 3862 ON SECOND READING

On motion of Senator Whitmire and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 3862** at this time on its second reading:

HB 3862, Relating to temporary directors and the continuation in existence of the Harris County Municipal Utility District No. 510.

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 3862 ON THIRD READING

Senator Whitmire moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3862** 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 628 ON SECOND READING

On motion of Senator Jackson and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 628** at this time on its second reading:

HB 628, Relating to contracts by governmental entities and related professional services and to public works performance and payment bonds.

The bill was read second time.

Senator Jackson offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 628** (senate committee report) as follows:

In SECTION 2.02 of the bill, in amended section 44.031(a)(4) (page 1, lines 54-55) strike "for services other than construction services."

In SECTION 2.08 of the bill, in added section 2267.105 (page 8, line 26), strike "10th business" and substitute "seventh".

The amendment to **HB 628** was read and was adopted by a viva voce vote.

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

Senator Jackson offered the following amendment to the bill:

Floor Amendment No. 2

Amend **HB 628** by adding the following appropriately numbered SECTIONS to the bill and renumbering the remaining SECTIONS of the bill accordingly:

SECTION _____. Section 791.011, Government Code, is amended by adding Subsection (h-1) to read as follows:

(h-1) In this subsection, "roofing materials or services" includes materials or services for repair or replacement of a roof. An interlocal contract between a governmental entity and a purchasing cooperative may not be used to purchase roofing materials or services from a person who provided consulting services to the cooperative on the contract, including providing specifications for bids on the contract. This prohibition also applies to:

(1) a person that is an agent, subsidiary, or parent company of the person who consulted with the cooperative; or

(2) a person related in the second degree of consanguinity or affinity to a person who consulted with the cooperative.

SECTION _____. The change in law made by this Act to Section 791.011, Government Code, applies only to an interlocal contract or an amendment to, supplement to, or waiver of a provision of a contract made on or after the effective date of this Act. An interlocal contract or an amendment to, supplement to, or waiver of a provision of a contract made before the effective date of this Act is governed by the law in effect when the contract or amendment, supplement, or waiver was made, and the former law is continued for that purpose.

The amendment to **HB 628** was read and was adopted by a viva voce vote.

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

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

Floor Amendment No. 3

Amend **HB 628** (senate committee printing) in proposed Sec. 2267.408, Government Code, as follows:

(1) on page 20, line 10, after "USE OF ARCHITECT OR ENGINEER." and "If a job order" insert "(a)".

(2) on page 20, between lines 17 and 18, and new subsection (b) to read as follows:

(b) Subsection (a) does not apply to a job order contract or an order issued under the contract for industrialized housing, industrialized buildings or relocatable educational facilities subject to and approved under Chapter 1202, Occupations Code, if the contractor employs the services of an architect or engineer of record who approves the documents for the project.

The amendment to **HB 628** was read and was adopted by a viva voce vote.

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

Senator Seliger offered the following amendment to the bill:

Floor Amendment No. 4

Amend **HB 628** (engrossed version) as follows:

On page 52, between lines 8 and 9, insert a new SECTION 2.12 as follows and renumber SECTIONS of the bill appropriately:

SECTION 2.12. Section 271.9051(b), Local Government Code, is amended to read as follows:

(b) In purchasing under this title any real property, personal property that is not affixed to real property, or services, if a municipality receives one or more competitive sealed bids from a bidder whose principal place of business is in the municipality and whose bid is within five percent of the lowest bid price received by the municipality from a bidder who is not a resident of the municipality, the municipality may enter into a contract for construction services in an amount [~~an expenditure~~] of less than \$100,000 or a contract for other purchases in an amount of less than \$500,000 with:

(1) the lowest bidder; or

(2) the bidder whose principal place of business is in the municipality if the governing body of the municipality determines, in writing, that the local bidder offers the municipality the best combination of contract price and additional economic development opportunities for the municipality created by the contract award, including the employment of residents of the municipality and increased tax revenues to the municipality.

The amendment to **HB 628** was read and was adopted by a viva voce vote.

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

Senator Carona offered the following amendment to the bill:

Floor Amendment No. 5

Amend **HB 628** (senate committee report) as follows:

(1) Add the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE ____ . INDUSTRIALIZED HOUSING

SECTION ____ .01. Section 1202.155, Occupations Code, is amended by adding Subsection (c) to read as follows:

(c) Notwithstanding Subsections (a) and (b), the commission by rule may adopt another method of indicating that the designs, plans, and specifications of industrialized housing and buildings satisfy the requirements of Subsection (a)(1) and are approved in accordance with Subsection (a)(2) if the study conducted under Section 1202.1551 recommends the method.

SECTION ____ .02. Subchapter D, Chapter 1202, Occupations Code, is amended by adding Section 1202.1551 to read as follows:

Sec. 1202.1551. STUDY CONCERNING APPROVAL OF DESIGNS, PLANS, AND SPECIFICATIONS. (a) The council shall conduct a study to:

(1) evaluate the current method of indicating approval of designs, plans, and specifications of industrialized housing and buildings under Sections 1202.155(a) and (b); and

(2) identify and evaluate methods of indicating approval of designs, plans, and specifications of industrialized housing and buildings that are alternatives to the method described by Subdivision (1).

(b) The study may recommend for adoption by the commission an alternative method identified under Subsection (a)(2) if the council determines that the method would:

(1) ensure that the designs, plans, and specifications of industrialized housing and buildings:

(A) meet or exceed the code standards and requirements under council interpretations and instructions; and

(B) are approved by the department or an approved design review agency; and

(2) be more efficient and cost-effective for the department or approved design review agencies.

(c) This section expires September 1, 2014.

SECTION __.03. Subsection (a), Section 1202.252, Occupations Code, is amended to read as follows:

(a) A municipality that regulates the on-site construction or installation of industrialized housing and buildings may:

(1) require and review, for compliance with mandatory building codes, a complete set of designs, plans, and specifications approved by the council [~~bearing the council's stamp of approval~~] for each installation of industrialized housing or buildings in the municipality;

(2) require that all applicable local permits and licenses be obtained before construction begins on a building site;

(3) require, in accordance with commission rules, that all modules or modular components bear an approved decal or insignia indicating inspection by the department; and

(4) establish procedures for the inspection of:

(A) the erection and installation of industrialized housing or buildings to be located in the municipality, to ensure compliance with mandatory building codes and commission rules; and

(B) all foundation and other on-site construction, to ensure compliance with approved designs, plans, and specifications.

(2) Add the following appropriately numbered SECTION to ARTICLE 6 of the bill and renumbering subsequent SECTIONS of the ARTICLE accordingly:

SECTION 6.__. Not later than September 1, 2012, the Texas Industrialized Building Code Council shall complete the study required by Section 1202.1551, Occupations Code, as added by this Act.

The amendment to **HB 628** was read and was adopted by a viva voce vote.

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

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

HB 628 as amended was passed to third reading by a viva voce vote.

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

HOUSE BILL 628 ON THIRD READING

Senator Jackson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 628** be placed on its third reading and final passage.

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

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

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

Tuesday, May 24, 2011 - 3

The Honorable President of the Senate
Senate Chamber
Austin, Texas

Mr. President:

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

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

SB 17 Carona Sponsor: Truitt
Relating to the regulation of residential mortgage loan servicers; providing an administrative penalty.
(Committee Substitute)

SB 271 Uresti Sponsor: Menendez
Relating to the board of directors of the Bexar Metropolitan Water District.

SB 370 Seliger Sponsor: Ritter
Relating to the authority of the Texas Water Development Board to provide financial assistance for certain projects if the applicant has failed to complete a request for information relevant to the project.

SB 694 West Sponsor: Smith, Wayne
Relating to the regulation of metal recycling entities; providing penalties.
(Committee Substitute/Amended)

SB 773 Zaffirini Sponsor: Gallego
Relating to telecommunications service discounts for educational institutions, libraries, hospitals, and telemedicine centers.
(Amended)

SB 1717 Duncan Sponsor: Lewis
Relating to the operation and administration of the judicial branch of state government.
(Committee Substitute/Amended)

SB 1799 West Sponsor: Branch
Relating to the student loan program administered by the Texas Higher Education Coordinating Board; authorizing the issuance of bonds.

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

Tuesday, May 24, 2011 - 4

The Honorable President of the Senate
Senate Chamber
Austin, Texas

Mr. President:

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

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

SB 223 Nelson Sponsor: Gonzalez, Naomi
Relating to certain facilities and care providers, including providers under the state Medicaid program; providing penalties.
(Committee Substitute/Amended)

SB 303 Nichols Sponsor: Scott
Relating to health care services provided or paid by a hospital district.
(Amended)

SB 332 Fraser Sponsor: Ritter
Relating to the ownership of groundwater below the surface of land, the right to produce that groundwater, and the management of groundwater in this state.
(Committee Substitute/Amended)

SB 731 Nichols Sponsor: Kolkhorst
Relating to the attorney general's legal sufficiency review of a comprehensive development agreement.
(Committee Substitute)

SB 781 Carona Sponsor: Cook
Relating to the repeal of certain legislative oversight committees.
(Amended)

SB 1543 Wentworth Sponsor: Larson
Relating to the authority of an independent school district to invest in corporate bonds.
(Amended)

SB 1714 Duncan Sponsor: Chisum
 Relating to certain actions against an employer by an employee who is not covered by workers' compensation insurance.
 (Committee Substitute/Amended)

SB 1816 Zaffirini Sponsor: Raymond
 Relating to county and municipal land development regulation.
 (Amended)

SB 1909 Lucio Sponsor: Oliveira
 Relating to The University of Texas at Brownsville, including its partnership agreement with the Texas Southmost College District.
 (Committee Substitute)

Respectfully,

/s/Robert Haney, Chief Clerk
 House of Representatives

**COMMITTEE SUBSTITUTE
 HOUSE BILL 1103 ON SECOND READING**

Senator Ellis moved to suspend the regular order of business to take up for consideration **CSHB 1103** at this time on its second reading:

CSHB 1103, Relating to the civil and criminal consequences of certain criminal offenses involving animal cruelty.

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

Yeas: Birdwell, Davis, Deuell, Duncan, Ellis, Gallegos, Hinojosa, Huffman, Lucio, Nelson, Ogden, Rodriguez, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Carona, Eltife, Estes, Fraser, Hegar, Jackson, Nichols, Patrick, Seliger, Shapiro.

Absent: Harris.

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: Carona, Eltife, Estes, Fraser, Hegar, Jackson, Nichols, Patrick, Seliger, Shapiro.

**MOTION TO PLACE
 COMMITTEE SUBSTITUTE
 HOUSE BILL 1103 ON THIRD READING**

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1103** be placed on its third reading and final passage.

The motion was lost by the following vote: Yeas 21, Nays 10. (Not receiving four-fifths vote of Members present)

Yeas: Birdwell, Davis, Duncan, Ellis, Gallegos, Harris, Hegar, Hinojosa, Huffman, Lucio, Nelson, Ogden, Rodriguez, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Carona, Deuell, Eltife, Estes, Fraser, Jackson, Nichols, Patrick, Seliger, Shapiro.

HOUSE BILL 2387 ON SECOND READING

On motion of Senator Lucio and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2387** at this time on its second reading:

HB 2387, Relating to the selection, compensation, and duties of the general counsel to an appraisal district.

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 2387 ON THIRD READING

Senator Lucio moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2387** be placed on its third reading and final passage.

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

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

COMMITTEE SUBSTITUTE

HOUSE BILL 1788 ON SECOND READING

Senator Uresti moved to suspend the regular order of business to take up for consideration **CSHB 1788** at this time on its second reading:

CSHB 1788, Relating to capturing reptiles and amphibians by nonlethal means; providing a penalty.

The motion prevailed.

Senators Birdwell, Estes, Fraser, Hegar, Ogden, Shapiro, and Van de Putte 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 **CSHB 1788** (senate committee printing) in SECTION 2 of the bill, in amended Section 62.0031, Parks and Wildlife Code (page 2, lines 30-31), by striking Subsection (e) and substituting the following:

(e) A person may not use an artificial light from a motor vehicle in locating, capturing, or attempting to capture a reptile or amphibian under Subsection (c).

The amendment to **CSHB 1788** 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.

CSHB 1788 as amended was passed to third reading by the following vote: Yeas 23, Nays 8.

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

Nays: Birdwell, Estes, Fraser, Hegar, Ogden, Patrick, Shapiro, Van de Putte.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1788 ON THIRD READING**

Senator Uresti moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1788** be placed on its third reading and final passage.

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

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

Nays: Estes, Fraser, Hegar, Ogden, Shapiro, Van de Putte.

Absent: Patrick.

The bill was read third time and was passed by the following vote: Yeas 23, Nays 8.

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

Nays: Birdwell, Estes, Fraser, Hegar, Ogden, Patrick, Shapiro, Van de Putte.

**COMMITTEE SUBSTITUTE
HOUSE BILL 326 ON SECOND READING**

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 326** at this time on its second reading:

CSHB 326, Relating to the reporting requirements of a state agency that is undergoing review by the Sunset Advisory Commission.

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

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 326 ON THIRD READING**

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 326** be placed on its third reading and final passage.

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

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 274 ON SECOND READING**

Senator Huffman moved to suspend the regular order of business to take up for consideration **CSHB 274** at this time on its second reading:

CSHB 274, Relating to the reform of certain remedies and procedures in civil actions and family law matters.

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

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

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 274 ON THIRD READING**

Senator Huffman moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 274** 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 2425 ON SECOND READING

On motion of Senator Hegar and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2425** at this time on its second reading:

HB 2425, Relating to notice to the attorney general of challenges to the constitutionality of Texas statutes.

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 2425 ON THIRD READING

Senator Hegar moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2425** 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 3836 ON SECOND READING

On motion of Senator Birdwell and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 3836** at this time on its second reading:

HB 3836, Relating to the creation of the Windsor Hills Municipal Management District No. 1; providing authority to levy an assessment and issue bonds.

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

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

HOUSE BILL 3836 ON THIRD READING

Senator Birdwell moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3836** be placed on its third reading and final passage.

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

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

COMMITTEE SUBSTITUTE

HOUSE BILL 3828 ON SECOND READING

On motion of Senator Gallegos and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 3828** at this time on its second reading:

CSHB 3828, Relating to the creation of the Gulfton Area Municipal Management District; providing authority to impose a tax, levy an assessment, and issue bonds.

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

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

COMMITTEE SUBSTITUTE

HOUSE BILL 3828 ON THIRD READING

Senator Gallegos moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 3828** be placed on its third reading and final passage.

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

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 3133 ON SECOND READING**

Senator Hinojosa moved to suspend the regular order of business to take up for consideration **CSHB 3133** at this time on its second reading:

CSHB 3133, Relating to the appraisal for ad valorem tax purposes of property on which housing is being or has been built or repaired for sale or rent to a low-income individual or family.

The motion prevailed.

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

The bill was read second time.

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

Floor Amendment No. 1

Amend **CSHB 3133** by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 23.55, Tax Code, is amended by adding Subsection (p) to read as follows:

(p) The sanctions provided by Subsection (a) do not apply to real property transferred to an organization described by Section 11.181(a) if the organization converts the real property to a use for which the real property is eligible for an exemption under Section 11.181(a). This subsection does not apply to the sanctions provided by Subsection (a) in connection with a change in use described by this subsection that are due to a county or school district unless the governing body of the county or school district, as applicable, waives the sanctions in the manner required by law for official action by the body.

SECTION _____. Section 23.55(p), Tax Code, as added by this Act, applies only to a transfer of real property that occurs on or after the effective date of this Act. A transfer of real property that occurs before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

The amendment to **CSHB 3133** was read and was adopted by a viva voce vote.

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

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

CSHB 3133 as amended was passed to third reading by a viva voce vote.

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

Nays: Birdwell, Nelson.

**COMMITTEE SUBSTITUTE
HOUSE BILL 3133 ON THIRD READING**

Senator Hinojosa moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 3133** be placed on its third reading and final passage.

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

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

Nays: Birdwell, Nelson.

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

HOUSE BILL 2649 ON SECOND READING

Senator Ellis moved to suspend the regular order of business to take up for consideration **HB 2649** at this time on its second reading:

HB 2649, Relating to the award of diligent participation credit to defendants confined in a state jail felony facility.

The motion prevailed.

Senator 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 third reading by the following vote: Yeas 30, Nays 1.

Nays: Ogden.

HOUSE BILL 2649 ON THIRD READING

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2649** be placed on its third reading and final passage.

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

Nays: Ogden.

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

HOUSE BILL 2098 ON SECOND READING

Senator Uresti moved to suspend the regular order of business to take up for consideration **HB 2098** at this time on its second reading:

HB 2098, Relating to the authority of physicians and physician assistants to form certain entities.

The motion prevailed.

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

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

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

Nays: Deuell, Shapiro.

HOUSE BILL 2098 ON THIRD READING

Senator Uresti moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2098** be placed on its third reading and final passage.

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

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

Nays: Deuell, Shapiro.

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

COMMITTEE SUBSTITUTE HOUSE BILL 3691 ON SECOND READING

Senator Carona moved to suspend the regular order of business to take up for consideration **CSHB 3691** at this time on its second reading:

CSHB 3691, Relating to community supervision and corrections departments and community justice plans.

The motion prevailed by the following vote: Yeas 28, Nays 3.

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

Nays: Hegar, Huffman, Nichols.

The bill was read second time and was passed to third reading by the following vote: Yeas 28, Nays 3. (Same as previous roll call)

COMMITTEE SUBSTITUTE HOUSE BILL 3691 ON THIRD READING

Senator Carona moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 3691** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 3.

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

Nays: Hegar, Huffman, Nichols.

The bill was read third time and was passed by the following vote: Yeas 28, Nays 3. (Same as previous roll call)

HOUSE BILL 3831 ON SECOND READING

On motion of Senator Rodriguez and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 3831** at this time on its second reading:

HB 3831, Relating to the creation of the Montecillo Municipal Management District No. 1; providing authority to levy an assessment, impose a tax, and issue bonds.

The bill was read second time.

Senator Rodriguez offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **HB 3831** (engrossed) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION ____ . NO TOLL ROADS. The district may not construct, acquire, maintain, or operate a toll road.

RODRIGUEZ
NICHOLS

The amendment to **HB 3831** was read and was adopted by a viva voce vote.

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

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

HB 3831 as amended was passed to third reading by a viva voce vote.

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

HOUSE BILL 3831 ON THIRD READING

Senator Rodriguez moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3831** 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 737 REREFERRED
(Motion In Writing)

Senator Williams submitted a Motion In Writing requesting that **HB 737** be withdrawn from the Committee on Intergovernmental Relations and rereferred to the Committee on International Relations and Trade.

The Motion In Writing prevailed without objection.

SENATE RULES SUSPENDED
(Posting Rules)

On motion of Senator Lucio and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on International Relations and Trade might meet and consider **HB 737** today.

RECESS

On motion of Senator Whitmire, the Senate at 1:32 p.m. recessed until 2:00 p.m. today.

AFTER RECESS

The Senate met at 2:16 p.m. and was called to order by Senator Eltife.

HOUSE BILL 3852 ON SECOND READING

On motion of Senator Birdwell and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 3852** at this time on its second reading:

HB 3852, Relating to the creation of the Midlothian Municipal Management District No. 2; providing authority to impose a tax, levy an assessment, and issue bonds.

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

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

HOUSE BILL 3852 ON THIRD READING

Senator Birdwell moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3852** be placed on its third reading and final passage.

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

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

COMMITTEE SUBSTITUTE
HOUSE BILL 1781 ON SECOND READING

On motion of Senator Nelson and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 1781** at this time on its second reading:

CSHB 1781, Relating to obsolete or redundant reporting requirements applicable to state agencies.

The bill was read second time.

Senator Seliger offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 1781** by adding the appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION . Subsection (c), Section 61.0815, Education Code, is amended to read as follows:

(c) The ~~[attorney general and the]~~ president of each institution of higher education shall collect all necessary data for inclusion in the report required by this section.

SECTION 2. Subsection (a), Section 231.005, Family Code, is amended to read as follows:

(a) The Title IV-D agency shall report to the legislature each biennium on:

(1) the effectiveness of the agency's child support enforcement activity in reducing the state's public assistance obligations; and

(2) the use and effectiveness of all enforcement tools authorized by state or federal law or otherwise available to the agency; ~~and~~

~~[(3) the progress and impact of the Title IV D agency's efforts to use private contractors to perform Title IV D program functions].~~

SECTION 3. Section 41.002, Government Code, is amended to read as follows:

Sec. 41.002. NOTIFICATION OF ADDRESS. Each district and county attorney shall notify the ~~[attorney general and]~~ comptroller of his post office address as soon as practicable after his election and qualification.

SECTION 4. Subsections (a) and (c), Section 242.005, Health and Safety Code, are amended to read as follows:

(a) The department ~~[and the attorney general each]~~ shall prepare annually a full report of the operation and administration of the department's ~~[their respective]~~ responsibilities under this chapter, including recommendations and suggestions considered advisable.

(c) The department ~~[and the attorney general]~~ shall submit the required report ~~[reports]~~ to the governor and the legislature not later than October 1 of each year.

SECTION 5. Subsection (c), Section 247.050, Health and Safety Code, is amended to read as follows:

(c) The department ~~[and the attorney general]~~ shall file a copy of the quarterly reports required by this section with the substantive committees of each house of the legislature with jurisdiction over regulation of assisted living facilities.

SECTION 6. Subsection (b), Section 311.016, Tax Code, as amended by Chapters 977 (H.B. 1820) and 1094 (H.B. 2120), Acts of the 79th Legislature, Regular Session, 2005, is reenacted and amended to read as follows:

(b) The municipality or county shall send a copy of a report made under this section to~~[-~~

~~[(1) the attorney general; and~~

~~[(2)] the comptroller.~~

SECTION 7. The following provisions are repealed:

- (1) Subsection (e), Section 236.002, Family Code;
- (2) Section 402.034, Government Code;
- (3) Section 481.168, Government Code;
- (4) Section 2107.005, Government Code;
- (5) Subsection (b), Section 247.050, Health and Safety Code;
- (6) Section 240.903, Local Government Code; and
- (7) Section 395.082, Local Government Code.

SECTION 8. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2011.

The amendment to **CSHB 1781** 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 Nelson and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSHB 1781 as amended was passed to third reading by a viva voce vote.

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

COMMITTEE SUBSTITUTE HOUSE BILL 1781 ON THIRD READING

Senator Nelson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1781** 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.

SENATE RULE 5.14(a) SUSPENDED (Intent Calendar)

Senator Williams moved to suspend Senate Rule 5.14(a) to extend the time to allow Members to place bills and resolutions on the Intent Calendar until 7:00 p.m. today.

The motion prevailed without objection.

HOUSE BILL 3182 ON SECOND READING

Senator Williams moved to suspend the regular order of business to take up for consideration **HB 3182** at this time on its second reading:

HB 3182, Relating to the imposition of state taxes, including the sales and use, motor vehicle sales and use, and hotel occupancy tax, on certain oilfield portable units.

The motion prevailed.

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

The bill was read second time 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:

Present-not voting: Ogden.

HOUSE BILL 3182 ON THIRD READING

Senator Williams moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3182** be placed on its third reading and final passage.

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

Present-not voting: Ogden.

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

HOUSE BILL 3423 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 3423** at this time on its second reading:

HB 3423, Relating to certain criminal offenses committed in relation to a federal special investigator; providing criminal penalties.

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

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

HOUSE BILL 3423 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 3423** be placed on its third reading and final passage.

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

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

COMMITTEE SUBSTITUTE HOUSE BILL 3819 ON SECOND READING

On motion of Senator Nelson and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 3819** at this time on its second reading:

CSHB 3819, Relating to the creation of the Valencia Municipal Management District No. 1; providing authority to levy an assessment and issue bonds.

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

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 3819 ON THIRD READING**

Senator Nelson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 3819** 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 3821 ON SECOND READING

On motion of Senator Huffman and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 3821** at this time on its second reading:

HB 3821, Relating to temporary directors and the continuation in existence of the Bolivar Yacht Basin Water Control and Improvement District No. 1 of Galveston County.

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 3821 ON THIRD READING

Senator Huffman moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3821** 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.

(President Pro Tempore Ogden in Chair)

HOUSE BILL 3859 ON SECOND READING

On motion of Senator Deuell and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 3859** at this time on its second reading:

HB 3859, Relating to the creation of the Club Municipal Management District No. 1; providing authority to levy an assessment and issue bonds.

The bill was read second time.

Senator Deuell offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **HB 3859** (engrossed) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. NO TOLL ROADS. The district may not construct, acquire, maintain, or operate a toll road.

The amendment to **HB 3859** was read and was adopted by a viva voce vote.

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

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

HB 3859 as amended was passed to third reading by a viva voce vote.

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

HOUSE BILL 3859 ON THIRD READING

Senator Deuell moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3859** be placed on its third reading and final passage.

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

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

COMMITTEE SUBSTITUTE

HOUSE BILL 2999 ON SECOND READING

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 2999** at this time on its second reading:

CSHB 2999, Relating to a fixed tuition rate program for certain students who transfer to a state university after completing an associate degree program.

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

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

COMMITTEE SUBSTITUTE

HOUSE BILL 2999 ON THIRD READING

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2999** be placed on its third reading and final passage.

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

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 736 ON SECOND READING**

On motion of Senator West and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 736** at this time on its second reading:

CSHB 736, Relating to required online information regarding public institutions of higher education.

The bill was read second time.

Senator Shapiro offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 736** by adding the following appropriately numbered SECTION to the bill and renumbering the remaining SECTIONS of the bill accordingly:

SECTION _____. Subchapter C, Chapter 61, Education Code, is amended by adding Section 61.0778 to read as follows:

Sec. 61.0778. ONLINE INFORMATION REGARDING CERTAIN CAREER EDUCATIONAL ENTITIES. (a) In this section, "commission" means the Texas Workforce Commission.

(b) The board and commission jointly shall develop a comprehensive strategy to improve and coordinate the dissemination of online information regarding the operation and performance of career schools or colleges that the board or commission identifies as doing business in this state. As part of the comprehensive strategy, the board and the commission shall compile, share, and compare existing data and other applicable information under the control of each agency and shall organize that information as nearly as possible according to the categories of information required for the online resumes of lower-division public institutions under Section 51A.103. The websites must:

(1) present information regarding those institutions, schools, and colleges in a manner that is:

(A) to the extent practicable, consistent among the institutions, schools, and colleges; and

(B) easily accessible and readily understandable to the public.

The amendment to **CSHB 736** was read and was adopted by a viva voce vote.

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

Senator West temporarily postponed further consideration of **CSHB 736**.

Question — Shall **CSHB 736** as amended be passed to third reading?

HOUSE BILL 3823 ON SECOND READING

On motion of Senator Ellis and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 3823** at this time on its second reading:

HB 3823, Relating to the regulation of certain telecommunicators; providing penalties.

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

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

HOUSE BILL 3823 ON THIRD READING

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3823** 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 1728 ON SECOND READING

On motion of Senator Harris and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1728** at this time on its second reading:

HB 1728, Relating to energy savings performance contracts and energy efficiency planning.

The bill was read second time.

Senator Wentworth offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 1728** (senate committee printing) as follows:

(1) In SECTION 1 of the bill, strike proposed Section 44.901(f-1), Education Code (page, 1 line 62, through page 2, line 6), and substitute the following:

(f-1) Notwithstanding other law, the board may use any available money, other than money borrowed from this state, to pay the provider of the energy or water conservation measures under this section, and the board is not required to pay for such costs solely out of the savings realized by the school district under an energy savings performance contract. The board may contract with the provider to perform work that is related to, connected with, or otherwise ancillary to the measures identified in the scope of an energy savings performance contract.

(2) In SECTION 3 of the bill, strike proposed Section 51.927(g-1), Education Code (page 3, lines 1 through 9), and substitute the following:

(g-1) Notwithstanding other law, the board may use any available money, other than money borrowed from this state, to pay the provider of the energy or water conservation measures under this section, and the board is not required to pay for such costs solely out of the savings realized by the institution of higher education under an energy savings performance contract. The board may contract with the provider to perform work that is related to, connected with, or otherwise ancillary to the measures identified in the scope of an energy savings performance contract.

(3) In SECTION 4 of the bill, strike proposed Section 2166.406(f-1), Government Code (page 3, line 61, through page 4, line 1), and substitute the following:

(f-1) Notwithstanding other law, the state agency may use any available money, other than money borrowed from this state, to pay the provider of the energy or water conservation measures under this section, and the state agency is not required to pay for such costs solely out of the savings realized by the state agency under an energy savings performance contract. The state agency may contract with the provider to perform work that is related to, connected with, or otherwise ancillary to the measures identified in the scope of an energy savings performance contract.

(4) In SECTION 6 of the bill, strike proposed Section 302.004(a-1), Local Government Code (page 4, line 69, through page 5, line 9), and substitute the following:

(a-1) Notwithstanding other law, the governing body of a local government may use any available money, other than money borrowed from this state, to pay the provider of the energy or water conservation measures under this section, and the governing body is not required to pay for such costs solely out of the savings realized by the local government under an energy savings performance contract. The governing body may contract with the provider to perform work that is related to, connected with, or otherwise ancillary to the measures identified in the scope of an energy savings performance contract.

The amendment to **HB 1728** 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 Harris and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 1728 as amended was passed to third reading by a viva voce vote.

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

HOUSE BILL 1728 ON THIRD READING

Senator Harris moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1728** be placed on its third reading and final passage.

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

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

COMMITTEE SUBSTITUTE HOUSE BILL 736 ON SECOND READING

The President Pro Tempore laid before the Senate **CSHB 736** sponsored by Senator West on its second reading. The bill had been read second time, amended, and further consideration postponed:

CSHB 736, Relating to required online information regarding public institutions of higher education.

Question — Shall **CSHB 736** as amended be passed to third reading?

Senator Zaffirini offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSHB 736** (senate committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering the remaining SECTIONS of the bill accordingly:

SECTION _____. Subchapter C, Chapter 61, Education Code, is amended by adding Section 61.09021 to read as follows:

Sec. 61.09021. COMPARISON TOOL. (a) The board shall make available to the public on the board's Internet website a search tool that allows a person to compare general academic teaching institutions that meet certain criteria selected by the person, including offering a particular major or program of study.

(b) The comparison tool required under this section must:

(1) be accessible from the board's Internet website;

(2) allow a user to identify general academic teaching institutions according to selection criteria as determined by the board; and

(3) be accessible to the public without requiring registration or use of a user name, password, or other user identification.

(c) The comparison tool required under this section must generate a comparison chart in a grid format that:

(1) lists the general academic teaching institutions that match a user's search criteria; and

(2) provides information for each institution listed that the board has determined would aid a prospective student in evaluating the institution.

(d) The Internet page displaying the comparison chart must include a link to the Internet website of the Texas Workforce Commission.

(e) To the extent practicable, the information provided under Subsection (c) must consist of information that a general academic teaching institution is required to report to the board under another provision of law, including board rule.

(f) Each general academic teaching institution shall provide to the board the information to be provided under Subsection (c) not later than October 1, or a date determined by the board, of each year. The board shall update the comparison tool as soon as practicable after receiving information from each institution.

SECTION 2. Not later than February 1, 2013, the Texas Higher Education Coordinating Board shall create and post on the board's Internet website the comparison tool required by Section 61.09021, Education Code, as added by this Act.

The amendment to **CSHB 736** was read and was adopted by a viva voce vote.

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

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

CSHB 736 as amended was passed to third reading by a viva voce vote.

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 736 ON THIRD READING**

Senator West moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 736** 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 2449 ON SECOND READING

Senator Hegar moved to suspend the regular order of business to take up for consideration **HB 2449** at this time on its second reading:

HB 2449, Relating to the illegal possession of another person's ballot to be voted by mail.

The motion prevailed.

Senators Ellis, Gallegos, and Lucio asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time.

Senator Hegar, on behalf of Senator Shapiro, offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 2449** (senate committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 86.014(a), Election Code, is amended to read as follows:

(a) A copy of an application for a ballot to be voted by mail is not available for public inspection, except to the voter seeking to verify that the information pertaining to the voter is accurate, until the first business day after ~~[may be obtained from the early voting clerk:~~

~~[(1) 72 hours after the time a ballot is mailed to the voter; or~~

~~[(2) 48 hours after the time a ballot is mailed to the voter if the mailing occurs on the fourth day before] election day.~~

The amendment to **HB 2449** was read and was adopted by a viva voce vote.

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

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

HB 2449 as amended was passed to third reading by a viva voce vote.

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

Nays: Ellis, Gallegos, Lucio.

HOUSE BILL 2449 ON THIRD READING

Senator Hegar moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2449** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 3.

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

Nays: Ellis, Gallegos, Lucio.

The bill was read third time and was passed by the following vote: Yeas 28, Nays 3. (Same as previous roll call)

HOUSE BILL 1244 ON SECOND READING

On motion of Senator West and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1244** at this time on its second reading:

HB 1244, Relating to developmental education courses and the assessment of student readiness under the Texas Success Initiative for public institutions of higher education.

The bill was read second time.

Senator West offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **HB 1244** as follows:

Add SECTION 54.225

SEC. 54.225 STUDENTS ENROLLED IN NON-SEMESTER-LENGTH DEVELOPMENTAL EDUCATION INTERVENTIONS. The governing board of an institution of higher education may exempt from the payment of tuition authorized by this chapter a student who is participating in an approved non-semester-length developmental education intervention (including course-based, non-course-based, alternative-entry/exit, and other intensive developmental education activities).

The amendment to **HB 1244** was read and was adopted by a viva voce vote.

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

Senator West offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 1244** (senate committee printing) by striking SECTION 1 of the bill, amending Section 51.3062, Education Code, and substituting the following appropriately numbered SECTION:

SECTION _____. Section 51.3062, Education Code, is amended by adding Subsections (a-1), (i-2), (i-3), and (i-4) and amending Subsections (f), (i), and (k) to read as follows:

(a-1) In this section, "program evaluation" means a systematic method of collecting, analyzing, and using information to answer questions about developmental education courses, interventions, and policies, particularly about their effectiveness and cost-efficiency.

(f) Each assessment instrument designated by the board for use under this section must be diagnostic in nature and designed to assess a student's readiness to perform freshman-level academic coursework. The board shall prescribe a single standard or set of standards for each ~~the~~ assessment instrument to effectively measure student readiness as demonstrated by current research ~~[or instruments that reflect that student readiness. An institution of higher education may adopt more stringent assessment standards with respect to student readiness].~~

(i) The institution of higher education may refer a student to developmental coursework as considered necessary by the institution to address a student's deficiencies in the student's readiness to perform freshman-level academic coursework, except that the institution may not require enrollment in developmental coursework with respect to a student previously determined under Subsection (q-1) or determined by any institution of higher education to have met college-readiness standards. An institution that requires a student to enroll in developmental coursework must offer a range of developmental coursework, including online coursework, or instructional support that includes the integration of technology to efficiently address the particular developmental needs of the student.

(i-2) An institution of higher education must base developmental coursework on research-based best practices that include the following components:

(1) assessment;

(2) differentiated placement and instruction;

(3) faculty development;

(4) support services;

(5) program evaluation;

(6) integration of technology with an emphasis on instructional support programs;

(7) non-course-based developmental education interventions; and

(8) course pairing of developmental education courses with credit-bearing courses.

(i-3) The board shall adopt rules for the implementation of Subsection (i-2).

(i-4) The board, in consultation with institutions of higher education, shall develop and provide professional development programs, including instruction in differentiated instruction methods designed to address students' diverse learning needs, to faculty and staff who provide developmental coursework to students.

(k) An institution of higher education shall determine when a student is ready to perform freshman-level academic coursework. The institution must make its determination using learning outcomes for developmental education courses

developed by the board based on established college and career readiness standards and student performance on one or more appropriate assessments [on an individual basis according to the needs of the student. The determination shall include:

~~[(1) requiring a student to retake a board approved assessment instrument, if the student did not initially perform within a deviation established by the board; or~~

~~[(2) other board approved means of evaluating student readiness, if the student did not initially pass the assessment instrument but performed within a deviation established by the board].~~

The amendment to **HB 1244** was read and was adopted by a viva voce vote.

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

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

HB 1244 as amended was passed to third reading by a viva voce vote.

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

HOUSE BILL 1244 ON THIRD READING

Senator West moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1244** 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 1043 ON SECOND READING

Senator Lucio moved to suspend the regular order of business to take up for consideration **HB 1043** at this time on its second reading:

HB 1043, Relating to creating an offense for engaging in certain conduct relating to cockfighting.

The motion prevailed by the following vote: Yeas 26, Nays 5.

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

Nays: Hinojosa, Huffman, Nichols, Rodriguez, Williams.

The bill was read second time.

Senator Hegar offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 1043** (Senate committee printing) as follows:

(1) In added Section 42.105, Penal Code (page 1, lines 27-28), strike "or operates a facility used for cockfighting" and substitute "a cockfight".

(2) In added Section 42.105, Penal Code (page 1, line 56), strike "(b)(1), (2), (3), or (5)" and substitute "(b)(1) or (2)".

(3) In added Section 42.105, Penal Code (page 1, line 57), strike "(b)(4)" and substitute "(b)(3), (4), or (5)".

(4) In added Section 42.105, Penal Code (page 1, between lines 55 and 56), insert the following new subsection (f) and renumber the subsequent subsections of added Section 42.105, Penal Code, accordingly:

(f) It is an exception to the application of Subsection (b)(6) that the actor is 15 years of age or younger at the time of the offense.

The amendment to **HB 1043** 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.

HB 1043 as amended was passed to third reading by the following vote: Yeas 26, Nays 5.

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

Nays: Hinojosa, Huffman, Nichols, Rodriguez, Williams.

HOUSE BILL 1043 ON THIRD READING

Senator Lucio moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1043** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 5.

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

Nays: Hinojosa, Huffman, Nichols, Rodriguez, Williams.

The bill was read third time and was passed by the following vote: Yeas 26, Nays 5. (Same as previous roll call)

COMMITTEE SUBSTITUTE HOUSE BILL 3595 ON THIRD READING

Senator Carona moved to suspend the regular order of business to take up for consideration **CSHB 3595** at this time on its third reading and final passage:

CSHB 3595, Relating to energy efficiency goals and energy efficiency programs.

The motion prevailed.

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

The bill was read third time.

Senator Carona offered the following amendment to the bill:

Floor Amendment No. 1 on Third Reading

Amend **CSHB 3595** (senate committee report) on third reading as follows:

(1) On page 4, line 47, insert the following appropriately numbered SECTION to the bill and renumber subsequent SECTIONS accordingly:

SECTION ____ . Section 39.916(a)(2), Utilities Code, is amended to read as follows:

(2) "Distributed renewable generation owner" means:

(A) the owner of distributed renewable generation;

(B) a retail electric customer on whose side of the meter distributed renewable generation is installed and operated, regardless of whether the customer takes ownership of the distributed renewable generation; or

(C) a person who by contract is assigned ownership rights to energy produced from distributed renewable generation located at the premises of the customer on the customer's side of the meter.

(2) On page 4, line 47, insert the following appropriately numbered SECTION to the bill and renumber subsequent SECTIONS accordingly:

SECTION ____ . Section 39.916, Utilities Code, is amended by adding subsection (p) to read as follows:

(p) Neither a retail electric customer that uses distributed renewable generation nor the owner of the distributed renewable generation that the retail electric customer uses is an electric utility, power generation company, or retail electric provider for the purposes of this title and neither is required to register with or be certified by the commission if at the time the distributed renewable generation is installed, the estimated annual amount of electricity to be produced by the distributed renewable generation is less than or equal to the retail electric customer's estimated annual electric consumption.

The amendment to **CSHB 3595** was read and was adopted by a viva voce vote.

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

Senator Lucio offered the following amendment to the bill:

Floor Amendment No. 2 on Third Reading

Amend **CSHB 3595** on third reading by adding the following appropriately numbered SECTION to the bill and renumbering the remaining SECTIONS of the bill accordingly:

SECTION ___. (a) The legislature finds that:

(1) a competitive electric services market requires timely, accurate, and adequate information about the products and services offered to consumers in the market; and

(2) the Public Utility Commission of Texas operates an Internet website regarding the power to choose retail electric providers on which offers by those providers are published.

(b) Subchapter C, Chapter 39, Utilities Code, is amended by adding Section 39.110 to read as follows:

Sec. 39.110. TEXAS ELECTRIC CHOICE WEBSITE. (a) The commission shall publish and maintain an Internet website that allows customers to view competitive offers from retail electric providers. The website must enable a user to search by zip code offers available to a residential customer in the user's service area. Retail electric providers may, but are not required to, post offers available to residential customers on the website.

(b) At a minimum, the Internet website must include:

(1) features that make the website accessible to people with disabilities;

(2) a clear identification with each retail electric service price offer posted on the website of the category of the product as defined by commission rules;

(3) a searchable and sortable database of each retail electric provider offer on the website that allows the information to be read into a commercially available electronic database;

(4) information about the following programs available in the user's service area through a state agency or utility:

(A) energy efficiency programs, including weatherization and rebate programs;

(B) distributed renewable generation policies and programs, including rebate programs; and

(C) low-income utility assistance programs, including bill payment assistance, weatherization, and rebate programs; and

(5) access to information regarding retail electric providers' offers to residential distributed renewable generation owners for the owners' surplus electricity.

(c) The commission shall establish a project to implement this section. The commission shall create a working committee to provide input on the implementation of this section that is composed of members of commission staff, experts in user-centered web design, experts in consumer-choice web design, retail electric providers, consumer advocates, and representatives of various categories of potential users of the redesigned website, including people with disabilities and low-income customers.

(d) The commission shall establish protocols relating to the frequency with which information posted on the website is updated, except that a retail electric provider may not be limited with respect to the frequency with which the provider may change an offer.

(e) The commission shall consult and cooperate with other state agencies in the design, both for content and usability, of the website, including agencies providing low-income consumer assistance and energy efficiency assistance and the interagency coordinating group established under Section 535.053, Government Code.

(c) Section 39.116, Utilities Code, is amended to read as follows:

Sec. 39.116. NOTICE REGARDING CUSTOMER CHOICE INFORMATION. A retail electric provider shall include on each residential customer's bill a statement, in at least 12-point type on the front of the first page, that reads: "For more information about residential electric service please visit www.powertochoose.com." This section expires September 1, 2023 [~~2011~~].

(d) The Public Utility Commission of Texas shall publish and begin operation of a redesigned Internet website as provided by Section 39.110, Utilities Code, as added by this section, not later than September 1, 2012.

(e) The Public Utility Commission of Texas may accept funds from any source, including gifts, grants, or donations, to implement Section 39.110, Utilities Code, as added by this section. The commission may not incorporate a preference for information displayed directly or indirectly in favor of any funding source. The commission may not require an entity to contribute funds to have information posted on the Internet website. Implementation of Section 39.110, Utilities Code, as added by this section, is contingent on a finding by the commission that sufficient funding exists or is likely to exist to carry out the provisions of Section 39.110, Utilities Code, as added by this section.

(f) Notwithstanding any other provision of this Act, this section takes effect September 1, 2011.

The amendment to **CSHB 3595** 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.

Senator Fraser offered the following amendment to the bill:

Floor Amendment No. 3 on Third Reading

Amend **CSHB 3595** (senate committee printing) on third reading as follows:

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

SECTION _____. (a) This section may be cited as the Energy Policy Act.

(b) The Utilities Code is amended by adding Title 6 to read as follows:

TITLE 6. ENERGY POLICY ACT

CHAPTER 300. STRATEGIC ENERGY PLANNING

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 300.001. PURPOSE AND FINDINGS. (a) This title is enacted to promote, in accordance with the public interest, the strategic planning of energy development, production, delivery, commercialization, and utilization in this state.

(b) The purpose of this title is to establish a statewide energy policy planning entity and process that recognizes:

(1) public health and general welfare as a critical concern in the development of energy policies;

(2) energy as a valuable and vital commodity in the state's economy;

(3) protection of the environment as a major consideration in the production of energy and utilization of natural resources;

(4) cost-effective, market-based solutions as a preferred policy for energy planning;

(5) utilization of Texas-based resources to help provide energy security, stability, and reliability; and

(6) the importance of portfolio diversity in promoting energy system flexibility, affordability, and efficiency.

Sec. 300.002. DEFINITIONS. In this title:

(1) "Commission" means the Public Utility Commission of Texas.

(2) "Council" means the Texas Energy Policy Council.

(3) "Plan" means the statewide energy policy plan.

Sec. 300.003. TEXAS ENERGY POLICY COUNCIL. (a) The Texas Energy Policy Council is created to develop and present a statewide energy policy plan to the legislature. The plan must include a 20-year planning horizon and be updated to reflect changing conditions and should be considered a living document.

(b) The council is composed of 13 members as follows:

(1) the chairman of the Public Utility Commission of Texas;

(2) the chairman of the Railroad Commission of Texas;

(3) the chairman of the Texas Commission on Environmental Quality;

(4) the president and chief executive officer of the Electric Reliability

Council of Texas;

(5) the commissioner of the General Land Office;

(6) two members of the senate appointed by the lieutenant governor;

(7) two members of the house of representatives appointed by the speaker of

the house of representatives;

(8) one member of the academic community with expertise in energy appointed by the governor;

(9) one member of the academic community with expertise in environmental issues related to energy appointed by the governor;

(10) the director of the State Energy Conservation Office; and

(11) one member of the public with expertise in low-income energy issues, including the needs of low-income and vulnerable ratepayers, appointed by the governor.

(c) The governor shall designate the presiding officer from among the members of the council.

(d) An appointed member of the council serves for a full planning cycle and may be reappointed at the pleasure of the appointing official.

(e) The council shall meet at least quarterly in even-numbered years while developing a plan for submission to the legislature. The council may meet annually in odd-numbered years after submitting plans to the legislature.

(f) The council shall develop and implement policies and procedures that provide the public with reasonable opportunity to appear before the council and to speak on issues under the jurisdiction of the council.

(g) The commission is designated as the state agency responsible for administering the council. Staff from the commission shall be tasked, as necessary, with assisting the council in carrying out its duties.

Sec. 300.004. POWERS, DUTIES, AND RESPONSIBILITIES OF COUNCIL.

(a) In developing the plan, the council shall:

(1) encourage cooperation and coordination between public and private entities regarding energy usage, planning, research and development, and commercialization;

(2) seek policies that promote a diverse portfolio of clean, reliable, and competitively priced energy sources;

(3) promote research, pilot projects, and market-based incentives to explore and expand long-term energy options;

(4) develop policies to prevent supply interruptions and infrastructure failure;

(5) examine the impact on the environment of energy exploration, production, and use;

(6) take into account the statewide and regional water planning process;

(7) make recommendations for increasing public knowledge of energy use issues and public awareness of the importance of more efficient consumption of energy; and

(8) take into account the needs of low-income and vulnerable Texans.

(b) The council shall submit to the legislature the initial plan by December 1, 2012. Thereafter, the council shall report to the legislature by December 1 of each even-numbered year the status of the plan's implementation and make any recommendations for legislative action as necessary to implement or revise the plan. The council may update the plan as necessary to reflect evolving conditions.

Sec. 300.005. FUELS AND TECHNOLOGIES. (a) The council shall consider the following fuel sources, types of generation, and innovative technologies associated with these fuels and types of generation when creating the plan. These fuels, types of generation, and technologies include:

(1) oil and natural gas;

(2) coal and lignite;

(3) nuclear;

(4) renewable energy technologies;

(5) geothermal;

(6) methane;

(7) distributed generation;

(8) fuel cells and storage;

(9) water conservation technologies that could be utilized in the exploration, production, and generation of energy resources; and

(10) any other fuels and technologies as defined in Section 39.904(d), including solar and wind technologies.

(b) The council shall develop policies that ensure fuel resources available to the state are utilized in a balanced and efficient manner. The council shall consider the economic viability, price stability and volatility, and environmental impact of types of fuel and technology when making its recommendations. The council shall also consider all types of generation technology to identify in its recommendations current or potential operational or administrative advantages or disadvantages of each type of technology to which a protocol of the Electric Reliability Council of Texas applies.

Sec. 300.006. ENERGY EFFICIENT TECHNOLOGY. (a) In order to reduce the energy demand of customers in this state, the council shall consider energy-efficient technologies when formulating the plan and include them in its recommendations. Energy-efficient technologies shall be considered for the following:

(1) residential, commercial, industrial, and state and local energy users; and

(2) any other user group or application the council deems appropriate.

(b) The council shall consider the economic viability and competitiveness of new technologies when making its recommendations.

(c) The council shall consider the ability of energy-efficient technologies to reduce the demand for energy and the need for additional transmission capacity in the state and shall consider opportunities for reducing transmission constraints by using these technologies.

Sec. 300.007. TRANSMISSION. (a) The council shall consider and recommend strategies to ensure that customers in this state have access to reliable energy.

(b) The council shall consider transmission constraints, and make recommendations in the plan to alleviate or prevent those constraints, for the following sources of energy:

- (1) oil and natural gas;
- (2) coal and lignite;
- (3) wind and solar; and
- (4) electricity.

Sec. 300.008. ALTERNATIVE FUEL VEHICLES. (a) The council shall consider and make recommendations on strategies and incentives that promote the use of alternative fuel vehicles such as natural gas vehicles and plug-in electric vehicles.

(b) The council shall consider the economic feasibility of alternative fuel vehicles and infrastructure constraints and may make recommendations on incentives to incorporate and promote these vehicles as a component of the plan.

Sec. 300.009. ENVIRONMENT. (a) The council, when creating the plan or in formulating recommendations, shall consider the effects of energy exploration, production, and consumption on the environment.

(b) The council shall recommend strategies that protect and preserve the environment of the state and allow for access to and the production of safe, economically viable, and reliable sources of energy. The council shall consider:

- (1) air quality;
- (2) water quality;
- (3) water supply; and
- (4) waste disposal.

SECTION _____. Chapter 39, Utilities Code, is amended by adding Subchapter L to read as follows:

SUBCHAPTER L. REPORT ON RESERVES AND VOLUNTARY EMISSIONS
REDUCTIONS PLAN

Sec. 39.551. STATEMENT OF INTENT. It is not the intent of this subchapter to:

(1) transfer environmental regulation from the Railroad Commission of Texas or the Texas Commission on Environmental Quality to the commission; or

(2) reduce the competitiveness of the existing energy market in Texas by re-regulating the market or requiring the decommissioning of any lawfully operating generating plant.

Sec. 39.552. REPORT ON RESERVES. (a) Not later than December 1, 2011, the Railroad Commission of Texas shall prepare and submit to the commission a report on coal and gas reserves in this state that includes information relating to:

(1) natural gas reserves in this state proven and probable on November 1, 2011;

(2) estimates of the proven and probable natural gas reserves in this state for each of the next 15 years;

(3) estimates of natural gas prices and potential price volatility for each of the next 15 years;

(4) coal reserves in this state proven and probable on November 1, 2011;

(5) estimates of the proven and probable coal reserves in this state for each of the next 15 years; and

(6) estimates of coal prices and potential price volatility for each of the next 15 years.

(b) The Railroad Commission of Texas may request financial information and forecasts from the comptroller to assist the Railroad Commission of Texas in carrying out its duties under this section. The comptroller shall provide that information and those forecasts to the Railroad Commission of Texas as quickly as possible after receiving such request.

Sec. 39.553. REPORT AND PLAN. (a) The commission shall prepare a report on electric energy generation in this state. The report must include an analysis of and policy recommendations for how to most cost-effectively comply with environmental regulation.

(b) In preparing the report, the commission shall:

(1) analyze information from the reports submitted under this subchapter by electric generating facilities and the Railroad Commission of Texas; and

(2) use information already in the possession of existing regulators by consulting with the Railroad Commission of Texas, the Texas Commission on Environmental Quality, the Electric Reliability Council of Texas, the Southwest Power Pool, the Southeastern Electric Reliability Council, and the Western Electricity Coordinating Council.

(c) The report must evaluate and consider measures that will:

(1) maintain electric grid reliability;

(2) ensure the availability of electric energy at reasonable rates;

(3) reduce air pollution, as defined by Section 382.003, Health and Safety

Code;

(4) increase the state's ability to comply with state and federal clean air standards in nonattainment and near-nonattainment areas; and

(5) reduce the use of water for electricity generation in this state.

(d) The report must identify the 10 percent of electric generation capacity that will be most impacted by compliance with environmental regulation.

(e) The report must identify combinations of market factors, plant operating characteristics, federal and state environmental regulations promulgated after January 1, 2011, and other conditions that might make it more economically attractive for the electric generation capacity identified in the report to be retired rather than comply with the regulations. The market factors considered in the analysis must include:

(1) long-term prices and price volatility for fuel sources used to generate electricity in this state;

(2) price projections for the cost of electricity going forward and factors that are relevant to determining the market price of electricity; and

(3) the potential impact of the voluntary decommissioning of existing units of electric generation capacity from facilities in this state.

(f) The report must consider plant operating characteristics including variable and fixed operating costs of electric generation facilities identified in the report. The analysis must also incorporate a range of costs projected by credible sources for complying with the specified federal and state air pollution regulations. In conducting this analysis, the commission shall consider electric generation facilities in this state of various vintages, sizes, fuel types, conversion efficiencies, and emission characteristics. The analysis must:

(1) estimate the amount of electric generation capacity that is likely to voluntarily be retired rather than incur the additional expense of complying with the federal and state air pollution regulations;

(2) provide an analysis of the cost and the impact on electric rates, and provide price projections, associated with voluntarily retiring electric generation facilities included in the report;

(3) identify any additional barriers to the retirement of the types of electric generation capacity identified and provide recommendations on how to most cost-effectively and voluntarily reduce air pollution, including recommendations to accelerate the permitting process for certain types of low-polluting generation; and

(4) identify the types, costs, and effects of incentives to promote the goals of this section.

(g) Not later than October 1, 2012, the commission shall make a draft of the report available for public review and comment for a period of not less than 30 days.

(h) Not later than December 1, 2012, the commission shall finalize and publish the report.

(i) Implementation of the requirements of this section shall be contingent upon receiving gifts, grants, or donations sufficient to cover the expenses incurred by the commission.

SECTION _____. As soon as practicable after the effective date of this Act, the designated appointing officials shall appoint the members to the Texas Energy Policy Council established under Chapter 300, Utilities Code, as added by this Act.

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

(2) Strike SECTION 4 of the bill (page 4, lines 51-55).

The amendment to **CSHB 3595** was read and was adopted by a viva voce vote.

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

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

CSHB 3595 as amended was finally passed by the following vote: Yeas 25, Nays 6.

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

Nays: Birdwell, Hegar, Jackson, Nichols, Patrick, Shapiro.

(President in Chair)

LEAVE OF ABSENCE

On motion of Senator Whitmire, Senator Ogden was granted leave of absence on account of important business.

HOUSE BILL 3145 ON SECOND READING

Senator Zaffirini moved to suspend the regular order of business to take up for consideration **HB 3145** at this time on its second reading:

HB 3145, Relating to the regulation of chemical dependency counselors.

The motion prevailed.

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

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

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

Nays: Birdwell, Hegar, Shapiro.

Absent-excused: Ogden.

HOUSE BILL 3145 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 3145** be placed on its third reading and final passage.

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

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

Nays: Birdwell, Shapiro.

Absent-excused: Ogden.

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, Hinojosa, Huffman, Jackson, Lucio, Nelson, Nichols, Patrick, Rodriguez, Seliger, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Birdwell, Hegar, Shapiro.

Absent-excused: Ogden.

HOUSE BILL 2466 ON SECOND READING

On motion of Senator Carona and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2466** at this time on its second reading:

HB 2466, Relating to the licensing and operation of motor vehicles by minors.

The bill was read second time.

Senator Hegar offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 2466** (Senate committee printing) as follows:

(1) In SECTION 2 of the bill, in Section 521.296, Transportation Code (page 1, line 54), strike "or 521.2965".

(2) Strike SECTION 4 of the bill and renumber subsequent sections accordingly.

The amendment to **HB 2466** was read.

Senator Carona temporarily postponed further consideration of **HB 2466**.

Question — Shall Floor Amendment No. 1 to **HB 2466** be adopted?

HOUSE BILL 2472 ON SECOND READING

On motion of Senator Rodriguez and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2472** at this time on its second reading:

HB 2472, Relating to the reporting of certain warrant or capias information to the national crime information center.

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: Ogden.

HOUSE BILL 2472 ON THIRD READING

Senator Rodriguez moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2472** be placed on its third reading and final passage.

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

Absent-excused: Ogden.

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 213 ON SECOND READING**

On motion of Senator Lucio and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 213** at this time on its second reading:

CSHB 213, Relating to certain loans secured by a lien on residential real property and to other transactions involving residential real property; providing civil penalties.

The bill was read second time.

Senator Lucio offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 213** (Senate committee printing), by striking on page 3, lines 56 thru 66, and substituting the following:

"(c) A purchaser or borrower must bring an action to void a deed executed in violation of this section not later than the fourth anniversary of the date the deed was recorded. A purchaser or borrower who is a prevailing party in an action to void a deed under this section may recover reasonable and necessary attorney's fees.

Sec. 21.003 ACTION BY ATTORNEY GENERAL. (a) The attorney general may bring an action on behalf of the state:

(1) for injunctive relief to require compliance with this chapter;

(2) to recover a civil penalty of \$500 for each violation of this chapter; or

(3) for both injunctive relief and to recover the civil penalty.

(b) The attorney general is entitled to recover reasonable expenses incurred in obtaining injunctive relief or a civil penalty, or both, under this section, including court costs and reasonable attorney's fees.

(c) The court may make such additional orders or judgments as are necessary to return to the purchaser a deed conveying residential real estate that the court finds was acquired by means of any violation of this chapter.

(d) In bringing or participating in an action under this chapter, the attorney general acts in the name of the state and does not establish an attorney-client relationship with another person, including a person to whom the attorney general requests that the court award relief.

(e) An action by the attorney general must be brought not later than the fourth anniversary of the date the deed was recorded."

The amendment to **CSHB 213** was read and was adopted by a viva voce vote.

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

Absent-excused: Ogden.

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

CSHB 213 as amended was passed to third reading by a viva voce vote.

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

Absent-excused: Ogden.

**COMMITTEE SUBSTITUTE
HOUSE BILL 213 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 **CSHB 213** be placed on its third reading and final passage.

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

Absent-excused: Ogden.

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

HOUSE BILL 3833 ON SECOND READING

On motion of Senator Harris and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 3833** at this time on its second reading:

HB 3833, Relating to the adoption of a uniform collaborative law Act in regard to family law matters.

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: Ogden.

HOUSE BILL 3833 ON THIRD READING

Senator Harris moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3833** be placed on its third reading and final passage.

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

Absent-excused: Ogden.

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 6 ON SECOND READING**

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

CSHB 6, Relating to the foundation curriculum, the establishment of the instructional materials allotment, and the adoption, review, and purchase of instructional materials and technological equipment for public schools.

The bill was read second time.

Senator Shapiro offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 6** by inserting the following new SECTIONS, appropriately numbered, and renumbering the subsequent SECTIONS accordingly:

SECTION _____. Subchapter A, Chapter 30A, Education Code, is amended by adding Section 30A.007 to read as follows:

Sec. 30A.007. LOCAL POLICY ON ELECTRONIC COURSES. (a) A school district or open-enrollment charter school shall adopt a policy that provides district or school students with the opportunity to enroll in electronic courses provided through the state virtual school network. The policy must be consistent with the requirements imposed by Section 26.0031.

(b) For purposes of a policy adopted under Subsection (a), the determination of whether or not an electronic course will meet the needs of a student with a disability shall be made by the student's admission, review, and dismissal committee in a manner consistent with state and federal law, including the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.) and Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794).

SECTION _____. Subchapter C, Chapter 30A, Education Code, is amended by adding Section 30A.1021 to read as follows:

Sec. 30A.1021. PUBLIC ACCESS TO USER COMMENTS REGARDING ELECTRONIC COURSES. (a) The administering authority shall provide students who have completed or withdrawn from electronic courses offered through the virtual school network and their parents with a mechanism for providing comments regarding courses that are part of the foundation curriculum under Section 28.002(a)(1).

(b) The administering authority may provide students who have completed or withdrawn from electronic courses offered through the virtual school network and their parents with a mechanism for providing comments regarding courses that are part of the enrichment curriculum under Section 28.002(a)(2).

(c) The mechanism required by Subsection (a) and authorized by Subsection (b) must include a quantitative rating system and a list of verbal descriptors that a student or parent may select as appropriate.

(d) The administering authority shall provide public access to the comments submitted by students and parents under this section. The comments must be in a format that permits a person to sort the comments by teacher, electronic course, and provider school district or school.

SECTION _____. Section 30A.104, Education Code, is amended to read as follows:

Sec. 30A.104. COURSE ELIGIBILITY IN GENERAL. (a) A course offered through the state virtual school network must:

(1) be in a specific subject that is part of the required curriculum under Section 28.002(a);

(2) be aligned with the essential knowledge and skills identified under Section 28.002(c) for a grade level at or above grade level three; and

(3) be the equivalent in instructional rigor and scope to a course that is provided in a traditional classroom setting during:

(A) a semester of 90 instructional days; and

(B) a school day that meets the minimum length of a school day required under Section 25.082.

(b) For purposes of Subsection (a)(2), a course is considered in compliance with the requirement imposed under that subdivision if:

(1) the course contains at least 80 percent of the applicable essential knowledge and skills; and

(2) the provider school district or school provides written documentation that the remaining 20 percent of the applicable essential knowledge and skills will be provided by the teacher of the course and instructional materials.

(c) If the essential knowledge and skills with which an approved course is aligned in accordance with Subsection (a)(2) are modified, the provider school district or school must be provided the same time period to revise the course and instructional materials to achieve alignment with the modified essential knowledge and skills as is provided for the modification of a course provided in a traditional classroom setting.

SECTION ____ . Section 30A.105, Education Code, is amended by adding Subsections (a-1) and (a-2) and amending Subsection (d) to read as follows:

(a-1) The administering authority shall publish the schedule established under Subsection (a)(1), including any deadlines specified in that schedule, and any guidelines applicable to the submission and approval process for electronic courses.

(a-2) The evaluation required by Subsection (a)(2) must include review of each electronic course component, including off-line material proposed to be used in the course.

(d) If the agency determines that the costs of evaluating and approving a submitted electronic course will not be paid by the agency due to a shortage of funds available for that purpose, the school district, open-enrollment charter school, or public or private institution of higher education that submitted the course for evaluation and approval may pay a fee equal to the amount of the costs in order to ensure that evaluation of the course occurs. The agency shall establish and publish a fee schedule for purposes of this subsection.

The amendment to **CSHB 6** was read and was adopted by a viva voce vote.

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

Absent-excused: Ogden.

Senator Shapiro offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSHB 6** by inserting the following new SECTIONS, appropriately numbered, and renumbering the subsequent SECTIONS accordingly:

SECTION ____ . Subchapter D, Chapter 30A, Education Code, is amended by adding Section 30A.153 to read as follows:

Sec. 30A.153. FOUNDATION SCHOOL PROGRAM FUNDING. (a) A school district or open-enrollment charter school in which a student is enrolled is entitled to funding under Chapter 42 for the student's enrollment in an electronic course offered through the state virtual school network in the same manner that the

district or school is entitled to funding for the student's enrollment in courses provided in a traditional classroom setting, provided that the student successfully completes the electronic course.

(b) The commissioner, after considering comments from school district and open-enrollment charter school representatives, shall adopt a standard agreement that governs payment of funds and other matters relating to a student's enrollment in an electronic course offered through the state virtual school network. The agreement may not require a school district or open-enrollment charter school to pay the provider the full amount until the student has successfully completed the electronic course.

(c) A school district or open-enrollment charter school shall use the standard agreement adopted under Subsection (b) unless:

(1) the district or school requests from the commissioner permission to modify the standard agreement; and

(2) the commissioner authorizes the modification.

(d) The commissioner shall adopt rules necessary to implement this section, including rules regarding attendance accounting.

SECTION ____ . Section 42.302(a), Education Code, is amended to read as follows:

(a) Each school district is guaranteed a specified amount per weighted student in state and local funds for each cent of tax effort over that required for the district's local fund assignment up to the maximum level specified in this subchapter. The amount of state support, subject only to the maximum amount under Section 42.303, is determined by the formula:

$$GYA = (GL \times WADA \times DTR \times 100) - LR$$

where:

"GYA" is the guaranteed yield amount of state funds to be allocated to the district;

"GL" is the dollar amount guaranteed level of state and local funds per weighted student per cent of tax effort, which is an amount described by Subsection (a-1) or a greater amount for any year provided by appropriation;

"WADA" is the number of students in weighted average daily attendance, which is calculated by dividing the sum of the school district's allotments under Subchapters B and C, less any allotment to the district for transportation, any allotment under Section 42.158~~[, 42.159,]~~ or 42.160, and 50 percent of the adjustment under Section 42.102, by the basic allotment for the applicable year;

"DTR" is the district enrichment tax rate of the school district, which is determined by subtracting the amounts specified by Subsection (b) from the total amount of maintenance and operations taxes collected by the school district for the applicable school year and dividing the difference by the quotient of the district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code, or, if applicable, under Section 42.2521, divided by 100; and

"LR" is the local revenue, which is determined by multiplying "DTR" by the quotient of the district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code, or, if applicable, under Section 42.2521, divided by 100.

SECTION ____ . Section 42.159, Education Code, is repealed.

The amendment to **CSHB 6** was read and was adopted by a viva voce vote.

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

Absent-excused: Ogden.

Senator Shapiro offered the following amendment to the bill:

Floor Amendment No. 3

Amend **CSHB 6** by striking SECTION 67 of the bill (senate committee printing, page 21, line 34) and substituting the following new SECTION 67:

SECTION 67. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2011.

The amendment to **CSHB 6** was read and was adopted by a viva voce vote.

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

Absent-excused: Ogden.

Senator Shapiro offered the following amendment to the bill:

Floor Amendment No. 4

Amend **CSHB 6** (senate committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter D, Chapter 12, Education Code, is amended by adding Section 12.135 to read as follows:

Sec. 12.135. DESIGNATION AS CHARTER DISTRICT FOR PURPOSES OF BOND GUARANTEE. (a) On the application of the charter holder, the commissioner may grant designation as a charter district to an open-enrollment charter school that meets financial standards adopted by the commissioner. The financial standards must require an open-enrollment charter school to have an investment grade credit rating as specified by Section 45.0541.

(b) A charter district may apply for bonds issued under Chapter 53 for the open-enrollment charter school to be guaranteed by the permanent school fund as provided by Chapter 45.

SECTION _____. Section 45.051, Education Code, is amended by adding Subdivision (1-a) and amending Subdivision (2) to read as follows:

(1-a) "Charter district" means an open-enrollment charter school designated as a charter district under Section 12.135.

(2) "Paying agent" means the financial institution that is designated by a school district or charter district as its agent for the payment of the principal of and interest on guaranteed bonds.

SECTION _____. Section 45.052, Education Code, is amended to read as follows:

Sec. 45.052. GUARANTEE. (a) On approval by the commissioner, bonds issued under Subchapter A by a school district or Chapter 53 for a charter district, including refunding bonds, are guaranteed by the corpus and income of the permanent school fund.

(b) Notwithstanding any amendment of this subchapter or other law, the guarantee under this subchapter of school district or charter district bonds remains in effect until the date those bonds mature or are defeased in accordance with state law.

SECTION _____. Subchapter C, Chapter 45, Education Code, is amended by adding Section 45.0532 to read as follows:

Sec. 45.0532. LIMITATION ON GUARANTEE OF CHARTER DISTRICT BONDS. (a) In addition to the general limitation under Section 45.053, the commissioner may not approve charter district bonds for guarantee under this subchapter in a total amount that exceeds the percentage of the total available capacity of the guaranteed bond program that is equal to the percentage of the number of students enrolled in open-enrollment charter schools in this state compared to the total number of students enrolled in all public schools in this state, as determined by the commissioner.

(b) For purposes of Subsection (a), the total available capacity of the guaranteed bond program is the limit established by the board under Sections 45.053(d) and 45.0531 minus the total amount of outstanding guaranteed bonds. Each time the board increases the limit under Section 45.053(d), the total amount of charter district bonds that may be guaranteed increases accordingly under Subsection (a).

(c) Notwithstanding Subsections (a) and (b), the commissioner may not approve charter district bonds for guarantee under this subchapter if the guarantee will result in lower bond ratings for school district bonds for which a guarantee is requested under this subchapter.

(d) The commissioner may request that the comptroller place the portion of the permanent school fund committed to the guarantee of charter district bonds in a segregated account if the commissioner determines that a separate account is needed to avoid any negative impact on the bond ratings of school district bonds for which a guarantee is requested under this subchapter.

(e) A guarantee of charter district bonds must be made in accordance with this chapter and any applicable federal law.

SECTION _____. Section 45.054, Education Code, is amended to read as follows:

Sec. 45.054. ELIGIBILITY OF SCHOOL DISTRICT BONDS. To be eligible for approval by the commissioner, school district bonds must be issued under Subchapter A of this chapter or under Subchapter A, Chapter 1207, Government Code, to make a deposit under Subchapter B or C of that chapter, by an accredited school district.

SECTION _____. Subchapter C, Chapter 45, Education Code, is amended by adding Section 45.0541 to read as follows:

Sec. 45.0541. ELIGIBILITY OF CHARTER DISTRICT BONDS. To be eligible for approval by the commissioner, charter district bonds must:

(1) without the guarantee, be rated as investment grade by a nationally recognized investment rating firm; and

(2) be issued under Chapter 53.

SECTION _____. Subsections (a) and (b), Section 45.055, Education Code, are amended to read as follows:

(a) A school district or charter district seeking guarantee of eligible bonds under this subchapter shall apply to the commissioner using a form adopted by the commissioner for the purpose. The commissioner may adopt a single form on which a school district seeking guarantee or credit enhancement of eligible bonds may apply simultaneously first for guarantee under this subchapter and then, if that guarantee is rejected, for credit enhancement under Subchapter I.

(b) An application under Subsection (a) must include:

(1) the name of the school district or charter district and the principal amount of the bonds to be issued;

(2) the name and address of the district's paying agent for those bonds; and

(3) the maturity schedule, estimated interest rate, and date of the bonds.

SECTION _____. Section 45.056, Education Code, is amended to read as follows:

Sec. 45.056. INVESTIGATION. (a) Following receipt of an application for the guarantee of bonds, the commissioner shall conduct an investigation of the applicant school district or charter district in regard to:

(1) the status of the district's accreditation; and

(2) the total amount of outstanding guaranteed bonds.

(b) If following the investigation the commissioner is satisfied that the school district's bonds should be guaranteed under this subchapter or provided credit enhancement under Subchapter I, as applicable, or the charter district's bonds should be guaranteed under this subchapter, the commissioner shall endorse the bonds.

SECTION _____. Subsection (b), Section 45.057, Education Code, is amended to read as follows:

(b) The guarantee is not effective unless the attorney general approves the bonds under Section 45.005 or 53.40, as applicable.

SECTION _____. Subchapter C, Chapter 45, Education Code, is amended by adding Section 45.0571 to read as follows:

Sec. 45.0571. CHARTER DISTRICT BOND GUARANTEE RESERVE FUND. (a) The charter district bond guarantee reserve fund is a special fund in the state treasury outside the general revenue fund. The following amounts shall be deposited in the fund:

(1) money due from a charter district as provided by Subsection (b); and

(2) interest earned on balances in the fund.

(b) A charter district that has a bond guaranteed as provided by this subchapter must annually remit to the commissioner, for deposit in the charter district bond guarantee reserve fund, an amount equal to 10 percent of the savings to the charter district that is a result of the lower interest rate on the bond due to the guarantee by the permanent school fund. The amount due under this section shall be amortized and paid over the duration of the bond. Each payment is due on the anniversary of the date the bond was issued. The commissioner shall adopt rules to determine the total and annual amounts due under this section.

(c) The commissioner may direct the comptroller to annually withhold the amount due to the charter district bond guarantee reserve fund under Subsection (b) for that year from the state funds otherwise payable to the charter district.

(d) Each year, the commissioner shall:

(1) review the condition of the bond guarantee program and the amount that must be deposited in the charter district bond guarantee reserve fund from charter districts; and

(2) determine if charter districts should be required to submit a greater percentage of the savings resulting from the guarantee.

(e) The commissioner shall make recommendations to the legislature based on the review under Subsection (d).

SECTION _____. Section 45.058, Education Code, is amended to read as follows:

Sec. 45.058. NOTICE OF DEFAULT. Immediately following a determination that a school district or charter district will be or is unable to pay maturing or matured principal or interest on a guaranteed bond, but not later than the fifth day before maturity date, the school district or charter district shall notify the commissioner.

SECTION _____. The heading to Section 45.059, Education Code, is amended to read as follows:

Sec. 45.059. PAYMENT OF SCHOOL DISTRICT BOND ON DEFAULT ~~[FROM PERMANENT SCHOOL FUND]~~.

SECTION _____. Subsection (a), Section 45.059, Education Code, is amended to read as follows:

(a) Immediately following receipt of notice under Section 45.058 that a school district will be or is unable to pay maturing or matured principal or interest on a guaranteed bond, the commissioner shall instruct the comptroller to transfer from the appropriate account in the permanent school fund to the district's paying agent the amount necessary to pay the maturing or matured principal or interest.

SECTION _____. Subchapter C, Chapter 45, Education Code, is amended by adding Section 45.0591 to read as follows:

Sec. 45.0591. PAYMENT OF CHARTER DISTRICT BOND ON DEFAULT.

(a) Immediately following receipt of notice under Section 45.058 that a charter district will be or is unable to pay maturing or matured principal or interest on a guaranteed bond, the commissioner shall instruct the comptroller to transfer from the charter district bond guarantee reserve fund created under Section 45.0571 to the district's paying agent the amount necessary to pay the maturing or matured principal or interest.

(b) If money in the charter district bond guarantee reserve fund is insufficient to pay the amount due on a bond under Subsection (a), the commissioner shall instruct the comptroller to transfer from the appropriate account in the permanent school fund to the district's paying agent the amount necessary to pay the balance of the unpaid maturing or matured principal or interest.

(c) Immediately following receipt of the funds for payment of the principal or interest, the paying agent shall pay the amount due and forward the canceled bond or coupon to the comptroller. The comptroller shall hold the canceled bond or coupon on behalf of the fund or funds from which payment was made.

(d) Following full reimbursement to the charter district bond guarantee reserve fund and the permanent school fund, if applicable, with interest, the comptroller shall further cancel the bond or coupon and forward it to the charter district for which payment was made.

SECTION _____. Section 45.060, Education Code, is amended to read as follows:

Sec. 45.060. BONDS NOT ACCELERATED ON DEFAULT. If a school district or charter district fails to pay principal or interest on a guaranteed bond when it matures, other amounts not yet mature are not accelerated and do not become due by virtue of the school district's or charter district's default.

SECTION _____. The heading to Section 45.061, Education Code, is amended to read as follows:

Sec. 45.061. REIMBURSEMENT OF FUNDS [~~PERMANENT SCHOOL FUND~~].

SECTION _____. Section 45.061, Education Code, is amended by amending Subsections (a) and (b) and adding Subsection (a-1) to read as follows:

(a) If the commissioner orders payment from the permanent school fund or the charter district bond guarantee reserve fund on behalf of a school district or charter district, the commissioner shall direct the comptroller to withhold the amount paid, plus interest, from the first state money payable to the school district or charter district. Except as provided by Subsection (a-1), the ~~[The]~~ amount withheld shall be deposited to the credit of the permanent school fund.

(a-1) After the permanent school fund has been reimbursed for all money paid from the fund as the result of a default of a charter district bond guaranteed under this subchapter, any remaining amounts withheld under Subsection (a) shall be deposited to the credit of the charter district bond guarantee reserve fund.

(b) In accordance with the rules of the board, the commissioner may authorize reimbursement to the permanent school fund or charter district bond guarantee reserve fund with interest in a manner other than that provided by this section.

SECTION _____. Section 45.062, Education Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) If a total of two or more payments are made under this subchapter on charter district bonds and the commissioner determines that the charter district is acting in bad faith under the guarantee program under this subchapter, the commissioner may request the attorney general to institute appropriate legal action to compel the charter district and its officers, agents, and employees to comply with the duties required of them by law in regard to the bonds.

SECTION _____. Subdivision (10), Section 53.02, Education Code, is amended to read as follows:

(10) "Authorized charter school" means an open-enrollment charter school that holds a charter granted under Subchapter D, Chapter 12, and includes an open-enrollment charter school designated as a charter district as provided by Section 12.135.

SECTION _____. Section 53.351, Education Code, is amended by amending Subsection (f) and adding Subsection (f-1) to read as follows:

(f) Except as provided by Subsection (f-1), a [A] revenue bond issued under this section is not a debt of the state or any state agency, political corporation, or political subdivision of the state and is not a pledge of the faith and credit of any of these entities. A revenue bond is payable solely from the revenue of the authorized open-enrollment charter school on whose behalf the bond is issued. A revenue bond issued under this section must contain on its face a statement to the effect that:

(1) neither the state nor a state agency, political corporation, or political subdivision of the state is obligated to pay the principal of or interest on the bond; and

(2) neither the faith and credit nor the taxing power of the state or any state agency, political corporation, or political subdivision of the state is pledged to the payment of the principal of or interest on the bond.

(f-1) Subsection (f) does not apply to a revenue bond issued under this section for a charter district if the bond is approved for guarantee by the permanent school fund under Subchapter C, Chapter 45.

SECTION _____. The changes in law made by this Act relating to a charter district and the guarantee of a charter district's bonds apply only to a bond issued or refunded on or after the effective date of this Act by an open-enrollment charter school designated as a charter district under Section 12.135, Education Code, as added by this Act. A bond issued or refunded by an open-enrollment charter school 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.

The amendment to **CSHB 6** was read and was adopted by a viva voce vote.

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

Absent-excused: Ogden.

Senator Patrick offered the following amendment to the bill:

Floor Amendment No. 5

Amend **CSHB 6** (senate committee printing) as follows:

(1) In SECTION 12 of the bill, strike the recital for Section 28.002, Education Code (page 3, lines 20-21), and substitute the following:

SECTION 12. Section 28.002, Education Code, is amended by amending Subsections (a), (c), (h), and (n) and adding Subsections (b-1), (b-2), (b-3), and (b-4) to read as follows:

(2) In SECTION 12 of the bill, following amended Section 28.002(a), Education Code (page 3, between lines 44 and 45), insert the following:

(b-1) In this section, "national curriculum standards" includes any curriculum standards endorsed, approved, sanctioned, or promoted by the United States Department of Education, the National Governors Association, or the Council of Chief State School Officers.

(b-2) The State Board of Education may not adopt national curriculum standards to comply with a duty imposed under this chapter.

(b-3) A school district may not use national curriculum standards to comply with the requirement to provide instruction in the essential knowledge and skills at appropriate grade levels under Subsection (c).

(b-4) Notwithstanding any other provision of this code, a school district or open-enrollment charter school may not be required to offer any aspect of a national curriculum.

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

SECTION _____. Section 21.351(a), Education Code, is amended to read as follows:

(a) The commissioner shall adopt a recommended appraisal process and criteria on which to appraise the performance of teachers. The commissioner may not adopt or develop a recommended appraisal process and criteria based on any federally enacted or nationally applicable appraisal criteria incorporating the results of student performance on assessment instruments. The commissioner may include appraisal criteria based in part on a measurement of the teacher's effectiveness, including the annual improvement of the teacher's students' achievement and the performance of the teacher's students on assessment instruments required under Subchapter B, Chapter 39. The criteria must be based on observable, job-related behavior, including:

(1) teachers' implementation of discipline management procedures; and

(2) the performance of a teacher's ~~teachers'~~ students.

SECTION _____. Section 39.023, Education Code, is amended by adding Subsection (a-2) to read as follows:

(a-2) The agency may not adopt or develop a criterion-referenced assessment instrument under this section based on national curriculum standards as defined by Section 28.002(b-1).

The amendment to **CSHB 6** was read.

Senator Ellis offered the following amendment to Floor Amendment No. 5:

Floor Amendment No. 6

Amend Amendment No. 5 to **CSHB 6** by adding the following appropriately numbered section and renumbering the remaining sections as appropriate:

SECTION _____. STATE BOARD OF EDUCATION. Subchapter D, Chapter 7, Education Code, is amended by adding Section 7.114 to read as follows:

Sec. 7.114. SUNSET PROVISION. The State Board of Education is subject to review under Chapter 325, Government Code (Texas Sunset Act), but is not abolished under that chapter. The board shall be reviewed during the periods in which state agencies scheduled to be abolished in 2013 and every 12th year after that year are reviewed.

The amendment to Floor Amendment No. 5 to **CSHB 6** was read.

On motion of Senator Patrick, Floor Amendment No. 6 was tabled by the following vote: Yeas 18, Nays 12.

Yeas: Birdwell, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Harris, Hegar, Huffman, Jackson, Nelson, Nichols, Patrick, Seliger, Shapiro, Wentworth, Williams.

Nays: Davis, Ellis, Gallegos, Hinojosa, Lucio, Rodriguez, Uresti, Van de Putte, Watson, West, Whitmire, Zaffirini.

Absent-excused: Ogden.

Question recurring on the adoption of Floor Amendment No. 5 to **CSHB 6**, the amendment was adopted by the following vote: Yeas 18, Nays 12.

Yeas: Birdwell, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Harris, Hegar, Huffman, Jackson, Nelson, Nichols, Patrick, Seliger, Shapiro, Wentworth, Williams.

Nays: Davis, Ellis, Gallegos, Hinojosa, Lucio, Rodriguez, Uresti, Van de Putte, Watson, West, Whitmire, Zaffirini.

Absent-excused: Ogden.

Senator Patrick offered the following amendment to the bill:

Floor Amendment No. 7

Amend **CSHB 6** (senate committee printing) as follows:

(1) In SECTION 24 of the bill, strike the recital (page 7, lines 55-56) and substitute the following:

Section 31.022, Education Code, is amended by amending Subsections (a), (b), (c), (e), and (f) and adding Subsection (d-1) to read as follows:

(2) In SECTION 24 of the bill, following amended Section 31.022(c), Education Code (page 8, between lines 26 and 27), insert the following:

(d-1) A notice published under Subsection (d) must state that a publisher of adopted instructional materials for a grade level other than prekindergarten must submit an electronic sample of the instructional materials as required by Sections 31.027(a) and (b) and may not submit a print sample copy.

(3) In SECTION 33 of the bill, in the heading to amended Section 31.027, Education Code (page 11, lines 44-45), strike "SAMPLE COPIES" and substitute "ELECTRONIC SAMPLE [COPIES]".

(4) In SECTION 33 of the bill, in amended Section 31.027(a), Education Code (page 11, line 49), strike "a sample copy in digital format" and substitute "an electronic [a] sample [copy]".

(5) In SECTION 33 of the bill, in amended Section 31.027(b), Education Code (page 11, lines 51-52), strike "at least two sample copies in digital format" and substitute "an electronic [at least two] sample [copies]".

The amendment to **CSHB 6** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 7 except as follows:

Absent-excused: Ogden.

(Senator Eltife in Chair)

Senator Patrick offered the following amendment to the bill:

Floor Amendment No. 8

Amend **CSHB 6** (senate committee printing) as follows:

(1) In SECTION 27 of the bill, amending Section 31.0231(c), Education Code (page 9, line 42), following the period, insert "If the commissioner places material on the list adopted under Subsection (a), the State Board of Education may, not later than the 90th day after the date the material is placed on the list, require the commissioner to remove the material from the list."

(2) In SECTION 27 of the bill, amending Section 31.0231(e), Education Code (page 10, line 3), between the period and "~~Before~~", insert "The State Board of Education may, in the manner provided by Subsection (c), require the commissioner to remove material placed on the updated list."

The amendment to **CSHB 6** was read and was adopted by the following vote: Yeas 17, Nays 13.

Yeas: Birdwell, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Harris, Hegar, Huffman, Jackson, Nelson, Nichols, Patrick, Shapiro, Wentworth, Williams.

Nays: Davis, Ellis, Gallegos, Hinojosa, Lucio, Rodriguez, Seliger, Uresti, Van de Putte, Watson, West, Whitmire, Zaffirini.

Absent-excused: Ogden.

Senator Patrick offered the following amendment to the bill:

Floor Amendment No. 9

Amend **CSHB 6** (senate committee printing) in SECTION 30 of the bill by striking amended Section 31.0241(b)(1), Education Code (page 10, lines 53-56), and substituting:

(1) by not later than the 90th day after the date the instructional material is submitted, the board reviews the instructional material and approves the placement of the instructional material on the list ~~[the textbook is written, compiled, or edited primarily by faculty of the eligible institution who specialize in the subject area of the textbook];~~

The amendment to **CSHB 6** was read and was adopted by the following vote: Yeas 18, Nays 12.

Yeas: Birdwell, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Harris, Hegar, Huffman, Jackson, Nelson, Nichols, Patrick, Seliger, Shapiro, Wentworth, Williams.

Nays: Davis, Ellis, Gallegos, Hinojosa, Lucio, Rodriguez, Uresti, Van de Putte, Watson, West, Whitmire, Zaffirini.

Absent-excused: Ogden.

Senator Harris offered the following amendment to the bill:

Floor Amendment No. 10

Amend **CSHB 6** (senate committee printing) as follows:

(1) In SECTION 21 of the bill, strike added Section 31.021(c)(5), Education Code (page 5, lines 64-66), and substitute the following:

(5) pay the expenses associated with the purchase of instructional material, including intrastate freight and shipping and the insurance expenses associated with intrastate freight and shipping.

(2) In SECTION 57 of the bill, strike amended Section 31.151(a)(6), Education Code (page 19, lines 22-38), and substitute the following:

(6) shall[=

~~[(A) maintain a depository in this state or arrange with a depository in this state to receive and fill orders for textbooks, other than open source textbooks, on line textbooks, or on line textbook components, consistent with State Board of Education rules; or~~

~~[(B) deliver instructional materials [textbooks] to a school district or open-enrollment charter school [without a delivery charge to the school district, open enrollment charter school, or state, if:~~

~~(i) the publisher or manufacturer does not maintain or arrange with a depository in this state under Paragraph (A) and the publisher's or manufacturer's textbooks and related products are warehoused or otherwise stored less than 300 miles from a border of this state; or~~

~~(ii) the textbooks are open source textbooks, on line textbooks, or on line textbook components];~~

HARRIS
WENTWORTH

The amendment to **CSHB 6** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 10 except as follows:

Absent-excused: Ogden.

Senator Wentworth offered the following amendment to the bill:

Floor Amendment No. 11

Amend **CSHB 6** by adding to the bill the following appropriately numbered SECTIONS and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 44.031, Education Code, is amended by adding Subsection (n) to read as follows:

(n) A school district contract to which Subsection (a) applies under which the district contracts with another entity for that entity to manage or otherwise provide food services at one or more district schools must require that any other contract the entity makes in performance of its duties under the contract with the district and to which Subsection (a) would apply if the district were making the contract be made:

(1) under the method listed by Subsection (a) that provides the best value to the entity and the district;

(2) with consideration of the factors specified under Subsection (b) and, as applicable, under Subsection (b-1), in determining to whom to award the contract; and

(3) as provided by Subsection (g).

SECTION _____. Section 44.031(n), Education Code, as added by this Act, applies only to a contract entered into on or after the effective date of this Act by a school district with another entity for that entity to manage or otherwise provide food services at one or more district schools. A contract entered into before the effective date of this Act by a school district with another entity for that entity to manage or otherwise provide food services at one or more district schools is governed by the law in effect on the date the contract was entered into, and that law is continued in effect for that purpose.

The amendment to **CSHB 6** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 11 except as follows:

Nays: Watson.

Absent-excused: Ogden.

Senator Nelson offered the following amendment to the bill:

Floor Amendment No. 12

Amend **CSHB 6** by adding the following appropriately numbered SECTIONS to the bill and renumbering the subsequent SECTIONS of the bill accordingly.

SECTION _____. Section 28.0216, Education Code, is amended to read as follows:

Sec. 28.0216. DISTRICT GRADING POLICY. (a) Before each school year, a [A] school district shall adopt a grading policy, including provisions for the assignment of grades on class assignments and examinations and the calculation of cumulative averages of grades [before each school year]. A district grading policy:

(1) must require a [classroom] teacher to assign a grade that reflects the student's relative mastery of the subject without employing grade inflation or misrepresenting a student's deserved grade [an assignment];

(2) may not require a [classroom] teacher to assign a minimum grade [for an assignment] without regard to the student's quality of work; and

(3) may allow a student a reasonable opportunity to make up or redo a class assignment or examination for which the student received a failing grade.

(b) A district grading policy shall apply to the assignment of a grade for which written notice is required under Section 28.022(a)(2), in addition to any other grade assigned by the district.

SECTION _____. This Act applies beginning with the 2011-2012 school year.

SECTION _____. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2011.

The amendment to **CSHB 6** 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. 12 except as follows:

Absent-excused: Ogden.

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

Floor Amendment No. 13

Amend **CSHB 6** by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter D, Chapter 12, Education Code, is amended by adding Section 12.1141 to read as follows:

Sec. 12.1141. REVISION: ADDING SCHOOLS UNDER CERTAIN CIRCUMSTANCES. (a) Except as provided by Subsection (b), the commissioner may not deny approval for a charter holder to add one or more additional open-enrollment charter schools under an existing open-enrollment charter granted to the charter holder if:

(1) considering available data, the charter holder meets all criteria established by rule for adding a charter school under an existing charter other than criteria for performance based on dropout and completion rates of one or more existing charter schools under the charter and the charter holder demonstrates through a process developed by the agency that those criteria would be met if:

(A) a student enrolled at the charter school who is at least 17 years of age at the time of enrollment were not considered a dropout; and

(B) a student who graduates from the charter school before or during the student's sixth year of high school were considered a high school graduate;

(2) the charter holder, at the time of submission of the application for approval to add one or more additional charter schools, has been assigned a financial accountability rating under Subchapter D, Chapter 39, indicating financial performance that is satisfactory or better; and

(3) each additional charter school:

(A) will serve only high school students;

(B) will have an enrollment of students of whom at least 50 percent did not graduate with a ninth grade cohort; and

(C) will be in the geographical area described for the charter under Section 12.111(a)(14).

(b) The commissioner may not approve a total of more than 10 additional charter schools under Subsection (a). The commissioner may, in accordance with commissioner rule, limit the enrollment of an additional charter school as necessary to conform to the capacity limits of the charter holder or the demand for services in the geographical area, as determined by the commissioner, but may not limit the enrollment of an additional charter school to less than the number of students currently enrolled at the high school level at a charter school operated by the charter holder that focuses on dropout recovery.

(c) This section expires September 1, 2013.

SECTION ____. Subchapter D, Chapter 12, Education Code, is amended by adding Section 12.1151 to read as follows:

Sec. 12.1151. LIMITATION ON REVOCATION OR DENIAL OF RENEWAL FOR CERTAIN CHARTER SCHOOLS. (a) This section applies only to an open-enrollment charter school that has an enrollment of students of whom at least 50 percent did not graduate with a ninth grade cohort.

(b) The commissioner may not revoke or deny renewal of the charter of an open-enrollment charter school to which this section applies if:

(1) considering available data, the charter holder meets all criteria established by rule for adding a charter school under an existing charter other than criteria for performance based on dropout and completion rates of one or more existing charter schools under the charter and the charter holder demonstrates through a process developed by the agency that those criteria would be met if:

(A) a student enrolled at the charter school who is at least 17 years of age at the time of enrollment were not considered a dropout; and

(B) a student who graduates from the charter school before or during the student's sixth year of high school were considered a high school graduate; and

(2) the charter holder, at the time the ratings appeal is filed, has been assigned a financial accountability rating under Subchapter D, Chapter 39, that indicates financial performance that is satisfactory or better.

(c) This section expires September 1, 2013.

The amendment to **CSHB 6** 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. 13 except as follows:

Absent-excused: Ogden.

Senator Patrick offered the following amendment to the bill:

Floor Amendment No. 14

Amend **CSHB 6** (senate committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. The heading to Section 12.101, Education Code, is amended to read as follows:

Sec. 12.101. AUTHORIZATION FOR LICENSE.

SECTION _____. Section 12.101, Education Code, is amended by amending Subsections (a), (b), and (d) and adding Subsections (e) and (f) to read as follows:

(a) In accordance with this subchapter, the State Board of Education may issue [~~grant~~] a license [~~charter~~] on the application of an eligible entity for an open-enrollment charter school to operate in a facility of a commercial or nonprofit entity, an eligible entity, or a school district, including a home-rule school district. In this subsection, "eligible entity" means:

(1) an institution of higher education as defined under Section 61.003;

(2) a private or independent institution of higher education as defined under Section 61.003;

(3) an organization that is exempt from taxation under Section 501(c)(3), Internal Revenue Code of 1986 (26 U.S.C. Section 501(c)(3)); or

(4) a governmental entity.

(b) The State Board of Education, after thoroughly investigating and evaluating an applicant, may issue [~~grant~~] a license [~~charter~~] for an open-enrollment charter school only to an applicant that meets any financial, governing, curriculum development and implementation, and operational standards adopted by the commissioner under this subchapter. In a state fiscal year, the [~~The~~] State Board of Education may not issue [~~grant a total of~~] more than 10 new licenses [~~215 charters~~] for an open-enrollment charter school plus a number of licenses equal to any number of charters for an open-enrollment charter school revoked or surrendered during the preceding state fiscal year.

(d) An educator employed by a school district before the effective date of a license [~~charter~~] for an open-enrollment charter school operated at a school district facility may not be transferred to or employed by the open-enrollment charter school over the educator's objection.

(e) A license holder is subject to any law applicable to a charter holder.

(f) The commissioner shall adopt rules for the form of a license, the basis and a procedure for modification or revocation of a license, and any other rules necessary for the issuance and administration of licenses under this subchapter. A rule adopted under this subsection must, to the greatest extent practicable, be consistent with a provision of this subchapter or a rule adopted under this subchapter for the same purpose as applicable to a charter.

SECTION _____. Subchapter D, Chapter 12, Education Code, is amended by adding Sections 12.1011 and 12.10111 to read as follows:

Sec. 12.1011. AUTHORIZATION FOR ISSUANCE OF LICENSES FOR SCHOOLS PRIMARILY SERVING STUDENTS WITH DISABILITIES. (a) The State Board of Education may issue under Section 12.101 a license on the application of an eligible entity for an open-enrollment charter school intended primarily to serve students with disabilities, including students with autism. The State Board of Education may not issue more than two new licenses for an open-enrollment charter school under this section each state fiscal year. A license issued under this section is not considered for purposes of the limit on the number of licenses imposed by Section 12.101(b).

(b) For purposes of the applicability of state and federal law, including a law prescribing requirements concerning students with disabilities, an open-enrollment charter school described by Subsection (a) is considered the same as any other school for which a license or charter is issued under this subchapter.

(c) To the fullest extent permitted under federal law, a parent of a student with a disability may choose to enroll the parent's child in an open-enrollment charter school described by Subsection (a) regardless of whether a disproportionate number of the school's students are students with disabilities.

(d) This section does not authorize an open-enrollment charter school to discriminate in admissions or in the services provided based on the presence, absence, or nature of an applicant's or student's disability.

Sec. 12.10111. AUTHORIZATION FOR CHARTER. (a) The State Board of Education shall grant a charter for an open-enrollment charter school to a license holder under Section 12.101 if:

(1) the open-enrollment charter school for which the license has been issued has been assigned an acceptable performance rating as provided by Subchapter C, Chapter 39, for any two of the preceding three school years;

(2) no campus operating under the license has been assigned an unacceptable performance rating as provided by Subchapter C, Chapter 39, for any two of the three preceding school years or such a campus has been closed; and

(3) the license holder satisfies standards of financial solvency and financial accountability established by the commissioner under Subchapter D, Chapter 39.

(b) Notwithstanding Section 12.101 and in accordance with Section 12.110, the State Board of Education may grant a charter for an open-enrollment charter school to an applicant for a charter that:

(1) is an entity described by Section 12.101(a)(3) that has operated one or more charter schools in another state and, as determined by the commissioner in accordance with commissioner rule, has achieved high performance under federal accountability and other appropriate academic and financial criteria, including at a minimum having achieved adequate yearly progress in accordance with federal law for the preceding three school years; or

(2) is an entity that has operated one or more charter schools established under Subchapter C, D, or E and, as determined by the commissioner in accordance with commissioner rule, has performed well under appropriate academic and financial criteria.

(c) A charter for an open-enrollment charter school granted under Subsection (b)(1) is considered a license for purposes of the limit on the number of licenses imposed by Section 12.101(b).

(d) A charter holder may establish one or more new open-enrollment charter school campuses under a charter without applying for authorization if:

(1) each open-enrollment charter school campus operating under the charter has been assigned an acceptable performance rating as provided by Subchapter C, Chapter 39, for the two preceding school years;

(2) the charter holder satisfies standards of financial solvency and financial accountability established by commissioner rule under Subchapter D, Chapter 39;

(3) the charter holder provides written notice, in the time, manner, and form provided by commissioner rule, to the State Board of Education and the commissioner of the establishment of any campus under this subsection; and

(4) not later than the 90th day after the date the charter holder provides written notice under Subdivision (3), the commissioner does not provide written notice to the charter holder disapproving a new campus under this section.

(e) For purposes of Subsection (d), an open-enrollment charter school campus rated as academically acceptable or higher under Subchapter D, Chapter 39, as that subchapter existed January 1, 2009, for the 2009-2010 or 2010-2011 school year is considered to have been assigned an acceptable performance rating for the applicable school year. This subsection expires January 1, 2015.

SECTION ____. Section 12.1012, Education Code, is amended by adding Subdivision (7) to read as follows:

(7) "License holder" means the entity to which a license is granted under this subchapter.

SECTION ____. Section 12.1056, Education Code, is amended to read as follows:

Sec. 12.1056. IMMUNITY ~~[FROM LIABILITY]~~. (a) In matters related to operation of an open-enrollment charter school, an open-enrollment charter school is immune ~~[from liability]~~ to the same extent as a school district, and its employees and volunteers are immune ~~[from liability]~~ to the same extent as school district employees

and volunteers. A member of the governing body of an open-enrollment charter school or of a charter holder is immune ~~[from liability]~~ to the same extent as a school district trustee.

(b) An open-enrollment charter school is a governmental unit as defined by Section 101.001, Civil Practice and Remedies Code, and is subject to liability only as provided by Chapter 101, Civil Practice and Remedies Code, and only in the manner that liability is provided by that chapter for a school district.

(c) An open-enrollment charter school is a local government as defined by Section 102.001, Civil Practice and Remedies Code, and a payment on a tort claim must comply with Chapter 102, Civil Practice and Remedies Code.

(d) An open-enrollment charter school is a local governmental entity as defined by Section 271.151, Local Government Code, and is subject to liability on a contract as provided by Subchapter I, Chapter 271, Local Government Code, and only in the manner that liability is provided by that subchapter for a school district.

SECTION _____. Subchapter D, Chapter 12, Education Code, is amended by adding Section 12.1058 to read as follows:

Sec. 12.1058. APPLICABILITY OF OTHER LAWS. (a) An open-enrollment charter school is considered to be:

- (1) a local government for purposes of Chapter 791, Government Code;
- (2) a local government for purposes of Chapter 2259, Government Code, except that an open-enrollment charter school may not issue public securities as provided by Section 2259.031(b), Government Code; and
- (3) a political subdivision for purposes of Chapter 172, Local Government Code.

(b) An open-enrollment charter school may elect to extend workers' compensation benefits to employees of the school through any method available to a political subdivision under Chapter 504, Labor Code, except that an open-enrollment charter school that self-insures either individually or collectively under Chapter 504, Labor Code, may not provide workers' compensation medical benefits to injured employees in the manner described by Section 504.053(b)(2), Labor Code. An open-enrollment charter school that elects to extend workers' compensation benefits as permitted under this section is considered to be a political subdivision for all purposes under Chapter 504, Labor Code. An open-enrollment charter school that self-insures either individually or collectively under Chapter 504, Labor Code, is considered to be an insurance carrier for purposes of Subtitle A, Title 5, Labor Code.

SECTION _____. Section 12.110, Education Code, is amended by amending Subsections (a), (b), and (c) and adding Subsections (a-1) and (e) to read as follows:

- (a) The State Board of Education shall adopt:
 - (1) an application form and a procedure that must be used to apply for a license ~~[charter]~~ for an open-enrollment charter school; and
 - (2) criteria to use in selecting a program for which to issue ~~[grant]~~ a license ~~[charter]~~.

(a-1) The State Board of Education shall adopt:

- (1) an application form and a procedure that must be used by an applicant described by Section 12.10111(b)(1) or (2) to apply for a charter for an open-enrollment charter school; and

(2) criteria to use in selecting a program for which to grant a charter.

(b) The application forms under Subsections (a) and (a-1) [form] must provide for including the information required under Section 12.111 [to be contained in a charter].

(c) As part of the application procedure, the board may require a petition supporting a license or charter for a school signed by a specified number of parents or guardians of school-age children residing in the area in which a school is proposed or may hold a public hearing to determine parental support for the school.

(e) The commissioner by rule may establish a fee for applying for a license or charter for an open-enrollment charter school. A fee established under this subsection must be sufficient to cover the agency's administrative costs for the application process, including the costs of investigating the applicant.

SECTION _____. Section 12.1101, Education Code, is amended to read as follows:

Sec. 12.1101. NOTIFICATION OF LICENSE OR CHARTER APPLICATION OR ESTABLISHMENT OF CAMPUS. The commissioner by rule shall adopt a procedure for providing notice to the following persons on receipt by the State Board of Education of an application for a license or charter for an open-enrollment charter school under Section 12.110 or on receipt by the board and the commissioner of notice of the establishment of a campus as authorized under Section 12.1011(d):

(1) the board of trustees of each school district from which the proposed open-enrollment charter school or campus is likely to draw students, as determined by the commissioner; and

(2) each member of the legislature that represents the geographic area to be served by the proposed school or campus, as determined by the commissioner.

SECTION _____. Section 12.111, Education Code, is amended by amending Subsections (a) and (b) and adding Subsections (a-1) and (c) to read as follows:

(a) Except as provided by Subsection (a-1), each license issued or [Each] charter granted under this subchapter must:

(1) describe the educational program to be offered, which must include the required curriculum as provided by Section 28.002;

(2) specify the period for which the charter or, consistent with Section 12.116(b-1), any charter renewal is valid;

(3) provide that continuation or renewal of the charter is contingent on the status of the charter as provided by Section 12.116(b-1) [acceptable student performance on assessment instruments adopted under Subchapter B, Chapter 39, and on compliance with any accountability provision specified by the charter, by a deadline or at intervals specified by the charter];

(4) [establish the level of student performance that is considered acceptable for purposes of Subdivision (3);

[(5)] specify any basis, in addition to a basis specified by this subchapter, on which the charter may be placed on probation or revoked or on which an alternative to revoking the charter, as described by Section 12.115(a-1), may be used [renewal of the charter may be denied];

(5) [(6)] prohibit discrimination in admission policy on the basis of sex, national origin, ethnicity, religion, disability, academic, artistic, or athletic ability, or the district the child would otherwise attend in accordance with this code, although the license or charter, as applicable, may:

(A) provide for the exclusion of a student who has a documented history of a criminal offense, a juvenile court adjudication, or discipline problems under Subchapter A, Chapter 37; and

(B) provide for an admission policy that requires a student to demonstrate artistic ability if the school specializes in performing arts;

(6) [(7)] specify the grade levels to be offered;

(7) [(8)] describe the governing structure of the program, including:

(A) the officer positions designated;

(B) the manner in which officers are selected and removed from office;

(C) the manner in which members of the governing body of the school are selected and removed from office;

(D) the manner in which vacancies on that governing body are filled;

(E) the term for which members of that governing body serve; and

(F) whether the terms are to be staggered;

(8) [(9)] specify the powers or duties of the governing body of the school that the governing body may delegate to an officer;

(9) [(10)] specify the manner in which the school will distribute to parents information related to the qualifications of each professional employee of the program, including any professional or educational degree held by each employee, a statement of any certification under Subchapter B, Chapter 21, held by each employee, and any relevant experience of each employee;

(10) [(11)] describe the process by which the person providing the program will adopt an annual budget;

(11) [(12)] describe the manner in which an annual audit of the financial and programmatic operations of the program is to be conducted, including the manner in which the person providing the program will provide information necessary for the school district in which the program is located to participate, as required by this code or by State Board of Education rule, in the Public Education Information Management System (PEIMS);

(12) [(13)] describe the facilities to be used;

(13) [(14)] describe the geographical area served by the program; and

(14) [(15)] specify any type of enrollment criteria to be used.

(a-1) A license issued under this subchapter is not required to comply with Subsection (a)(2), (3), or (4).

(b) A license holder or charter holder [~~of an open enrollment charter school~~] shall consider including in the school's license or charter, as applicable, a requirement that the school develop and administer personal graduation plans under Section 28.0212.

(c) The enrollment of a student with a disability, including autism, is not considered for purposes of any maximum student enrollment described by the charter.

SECTION _____. Section 12.115, Education Code, is amended to read as follows:

Sec. 12.115. BASIS FOR MODIFICATION, PLACEMENT ON PROBATION, OR REVOCATION; ALTERNATIVES TO REVOCATION~~[, OR DENIAL OF RENEWAL]~~. (a) The commissioner shall ~~[may]~~ modify, place on probation, or revoke~~[, or deny renewal of]~~ the charter of an open-enrollment charter school if the commissioner determines that the charter holder:

- (1) committed a material violation of the charter, including failure to satisfy accountability provisions prescribed by the charter;
- (2) failed to satisfy generally accepted accounting standards of fiscal management;
- (3) failed to protect the health, safety, or welfare of the students enrolled at the school; or
- (4) failed to comply with this subchapter or another applicable law or rule.

(a-1) Based on a determination described by Subsection (a) concerning the charter holder, as an alternative to revoking the charter of an open-enrollment charter school, the commissioner may:

- (1) reconstitute the governing body of the charter holder; or
- (2) assign operations of a school campus to a different charter holder.

(b) The action the commissioner takes under Subsection (a) or (a-1) shall be based on:

- (1) the best interest of the school's students;
- (2) [;] the severity of the violation[;] and any previous violation the school has committed; and
- (3) the accreditation status of the school under Subchapter C, Chapter 39.

SECTION _____. Section 12.116, Education Code, is amended to read as follows:

Sec. 12.116. PROCEDURE FOR MODIFICATION, PLACEMENT ON PROBATION, REVOCATION, ALTERNATIVE TO REVOCATION, OR DENIAL OF RENEWAL. (a) The commissioner shall adopt a procedure ~~[to be used]~~ for modifying, placing on probation, revoking, or denying renewal of the charter of an open-enrollment charter school or for using an alternative to revocation as described by Section 12.115(a-1).

~~[(b)]~~ The procedure ~~[adopted under Subsection (a)]~~ must, except as provided by Subsection (b), provide an opportunity for a hearing to the charter holder and to parents and guardians of students enrolled in the school. A hearing under this subsection must be held in the county in which the school is located ~~[at the facility at which the program is operated].~~

(a-1) The commissioner shall revoke the charter of an open-enrollment charter school in accordance with the procedure adopted under Subsection (a) if, after all information required for determining a performance rating under Subchapter D, Chapter 39, has been considered, the commissioner determines that the school is insolvent. In determining whether the school is insolvent, the commissioner shall consider whether the insolvency is a result of recovery of overallocated state funds under Section 42.258(a).

(b) The commissioner shall revoke the charter of an open-enrollment charter school without a hearing if each campus operated under the school's charter has been ordered closed under Section 39.107.

(b-1) The procedure adopted under Subsection (a) for denying renewal of the charter of an open-enrollment charter school must provide that the charter automatically renews unless the school's charter is revoked under Subchapter E, Chapter 39, before the expiration of a charter term. In addition, the procedure must require the commissioner and the charter holder to act in a timely manner, according to the procedure, to initiate revocation or renewal of the charter, as applicable. The term for which a charter is renewed shall not be less than 10 years.

(c) Chapter 2001, Government Code, does not apply to a hearing that is related to a modification, placement on probation, revocation, alternative to revocation, or denial of renewal under this subchapter.

SECTION _____. Subsection (a), Section 12.1164, Education Code, is amended to read as follows:

(a) The commissioner must notify the Teacher Retirement System of Texas in writing of the revocation~~[, denial of renewal,]~~ or surrender of a charter under this subchapter not later than the 10th business day after the date of the event.

SECTION _____. Section 12.117, Education Code, is amended by adding Subsections (c) and (d) to read as follows:

(c) An open-enrollment charter school for which a license is issued on or after September 1, 2011, may not admit a student unless the student:

(1) was enrolled in a public school in this state during the school year preceding the school year for which the student is seeking admission to the charter school; or

(2) is seeking admission for the first grade or a lower grade level.

(d) An open-enrollment charter school authorized by a license issued or charter granted under this subchapter to a municipality:

(1) is considered a work-site open-enrollment charter school for purposes of federal regulations regarding admissions policies that apply to open-enrollment charter schools receiving federal funding; and

(2) notwithstanding Subsection (a), may admit children of employees of the municipality to the school before conducting a lottery to fill remaining available positions, provided that the number of children admitted under this subdivision constitutes only a small percentage, as may be further specified by federal regulation, of the school's total enrollment.

SECTION _____. Subsection (a), Section 12.118, Education Code, is amended to read as follows:

(a) The commissioner shall designate an impartial organization with experience in evaluating school choice programs to conduct, under the supervision of the commissioner, an annual evaluation of open-enrollment charter schools.

SECTION _____. Subsection (c), Section 12.119, Education Code, is amended to read as follows:

(c) On request, the State Board of Education shall provide the information required by this section and Section 12.111(a)(7) [12.111(8)] to a member of the public. The board may charge a reasonable fee to cover the board's cost in providing the information.

SECTION _____. Section 12.156, Education Code, is amended to read as follows:

Sec. 12.156. APPLICABILITY OF CERTAIN PROVISIONS. (a) Except as otherwise provided by this subchapter, Subchapter D applies to a college or university charter school or junior college charter school as though the college or university charter school or junior college charter school, as applicable, were issued a license or granted a charter under that subchapter.

(b) A license issued or charter granted under this subchapter is not considered for purposes of the limit on the number of open-enrollment charter schools imposed by Section 12.101(b).

SECTION _____. Subsection (b), Section 12.113, Education Code, is repealed.

SECTION _____. The amendment of Subchapter D, Chapter 12, Education Code, by this Act, does not affect the status of a charter granted under Subchapter D, Chapter 12, Education Code, before the effective date of this Act and the implementation of licensing under Subchapter D, Chapter 12, Education Code, in accordance with this Act.

SECTION _____. Section 12.101, Education Code, as amended by this Act, and Sections 12.1011 and 12.10111, Education Code, as added by this Act, apply beginning with the 2012-2013 school year.

The amendment to **CSHB 6** 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. 14 except as follows:

Absent-excused: Ogden.

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

CSHB 6 as amended was passed to third reading by the following vote: Yeas 18, Nays 12.

Yeas: Birdwell, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Harris, Hegar, Huffman, Jackson, Nelson, Nichols, Patrick, Seliger, Shapiro, Wentworth, Williams.

Nays: Davis, Ellis, Gallegos, Hinojosa, Lucio, Rodriguez, Uresti, Van de Putte, Watson, West, Whitmire, Zaffirini.

Absent-excused: Ogden.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

Tuesday, May 24, 2011 - 5

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:

SJR 14 Van de Putte Sponsor: Anderson,
Charles "Doc"

Proposing a constitutional amendment authorizing the legislature to provide for an exemption from ad valorem taxation of all or part of the market value of the residence homestead of the surviving spouse of a 100 percent or totally disabled veteran.

SJR 26 West Sponsor: Turner
Proposing a constitutional amendment authorizing the legislature to allow cities or counties to enter into interlocal contracts with other cities or counties without the imposition of a tax or the provision of a sinking fund.

SJR 37 Van de Putte Sponsor: Taylor, Van
Proposing a constitutional amendment to change the length of the unexpired term that causes the automatic resignation of certain elected county or district officeholders if they become candidates for another office.

SJR 50 West Sponsor: Branch
Proposing a constitutional amendment providing for the issuance of general obligation bonds of the state to finance educational loans to students.

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

BILLS AND RESOLUTIONS SIGNED

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

SB 32, SB 54, SB 61, SB 77, SB 86, SB 116, SB 141, SB 149, SB 150, SB 162, SB 187, SB 189, SB 192, SB 193, SB 226, SB 260, SB 290, SB 335, SB 482, SB 494, SB 496, SB 512, SB 519, SB 530, SB 544, SB 626, SB 639, SB 690, SB 743, SB 796, SB 811, SB 851, SB 855, SB 867, SB 886, SB 899, SB 957, SB 1002, SB 1043, SB 1103, SB 1159, SB 1228, SB 1292, SB 1361, SB 1404, SB 1421, SB 1431, SB 1610, SB 1613, SB 1638, SB 1662, SB 1698, SB 1751, SB 1887, SB 1907, SB 1914, SB 1927, SCR 11, SCR 16, SJR 16, HB 8, HB 91, HB 159, HB 240, HB 252, HB 350, HB 417, HB 441, HB 442, HB 499, HB 675, HB 886, HB 1057, HB 1075, HB 1127, HB 1137, HB 1469, HB 1573, HB 1814, HB 1899, HB 2080, HB 2118, HB 2383, HB 2417, HB 2476, HB 2488, HB 2507, HB 2518, HB 2609, HB 2716, HB 2902, HB 2907, HB 2959, HB 2973, HB 3342, HB 3372, HB 3510, HB 3531, HB 3803.

HOUSE BILL 335 ON SECOND READING

Senator Birdwell moved to suspend the regular order of business to take up for consideration **HB 335** at this time on its second reading:

HB 335, Relating to implementation and requirements of certain health care reform laws.

The motion prevailed by the following vote: Yeas 22, Nays 8.

Yeas: Birdwell, Carona, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Harris, Hegar, Hinojosa, Huffman, Jackson, Nelson, Nichols, Patrick, Seliger, Shapiro, Wentworth, West, Whitmire, Williams.

Nays: Davis, Gallegos, Lucio, Rodriguez, Uresti, Van de Putte, Watson, Zaffirini.

Absent-excused: Ogden.

The bill was read second time.

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 335** (senate committee printing) in SECTION 1 of the bill, in added Section 322.021(b), Government Code (page 1, lines 16 - 18), by striking "may not implement a provision of a federal health care reform law described by Subsection (c) unless the state agency submits" and substituting "shall submit".

The amendment to **HB 335** was read and was adopted by a viva voce vote.

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

Absent-excused: Ogden.

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 2

Amend **HB 335** as follows:

(1) In SECTION 1 of the bill, in added Section 322.021(c) of the Government Code (Committee Printing page 1, line 26), between "expenditure" and "incurred", by inserting "and revenue".

(2) In SECTION 1 of the bill, in added Section 322.021(d)(4) of the Government Code (Committee Printing page 1, lines 56) by striking "and".

(3) In SECTION 1 of the bill, in added Section 322.021(d)(5) of the Government Code (Committee Printing page 1, line 57), between "cost" and "to", by inserting "and savings".

(4) In SECTION 1 of the bill, in added Section 322.021(d)(5) of the Government Code (Committee Printing page 1, line 58), by striking the period and inserting "; and".

(5) In SECTION 1 of the bill, in added Section 322.021(d) of the Government Code (Committee Printing page 1, between lines 59 and 60) by inserting the following new subdivisions:

(6) describe the amount of federal funding the agency uses to fund agency operations, including each federal program from which the agency receives or is eligible to receive federal funding; and

(7) describe the amounts of any increases in federal funding, including matching funds, that would be available to the agency if state funding for agency operations were increased.

The amendment to **HB 335** was read and was adopted by a viva voce vote.

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

Absent-excused: Ogden.

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 3

Amend **HB 335** (senate committee printing) between SECTIONS 1 and 2 of the bill (page 1, between lines 58 and 59) by inserting the following appropriately numbered SECTION and renumbering the subsequent SECTION accordingly:

SECTION _____. The changes in law made by Section 322.021, Government Code, as added by this Act, apply only to a provision of federal health care reform law implemented by a state agency on or after the effective date of this Act. A provision of federal health care reform law implemented by a state agency before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

The amendment to **HB 335** was read and was adopted by a viva voce vote.

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

Absent-excused: Ogden.

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

HB 335 as amended was passed to third reading by a viva voce vote.

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

Nays: Davis, Lucio, Rodriguez, Uresti, Van de Putte, Watson, Zaffirini.

Absent-excused: Ogden.

HOUSE BILL 2329 ON SECOND READING

On motion of Senator Van de Putte and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2329** at this time on its second reading:

HB 2329, Relating to the confidentiality of certain information regarding victims of trafficking of persons and to the issuance and enforcement of protective orders to protect victims of trafficking of persons; providing penalties.

The bill was read second time.

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

Floor Amendment No. 1

Amend **HB 2329** (senate committee report) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 25.026, Tax Code, is amended to read as follows:

Sec. 25.026. CONFIDENTIALITY OF CERTAIN ~~[VIOLENCE]~~ SHELTER CENTER AND SEXUAL ASSAULT PROGRAM ADDRESS INFORMATION.

(a) In this section:

(1) "Family violence shelter center" has the meaning assigned by Section 51.002, Human Resources Code.

(2) "Sexual assault program" has the meaning assigned by Section 420.003, Government Code.

(3) "Victims of trafficking shelter center" means a program that:

(A) is operated by a public or private nonprofit organization; and

(B) provides comprehensive residential and nonresidential services to victims of trafficking of persons under Section 20A.02, Penal Code.

(b) Information in appraisal records under Section 25.02 is confidential and is available only for the official use of the appraisal district, this state, the comptroller, and taxing units and political subdivisions of this state if the information identifies the address of a family violence shelter center, ~~or~~ a sexual assault program, or a victims of trafficking shelter center.

The amendment to **HB 2329** was read and was adopted by a viva voce vote.

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

Absent-excused: Ogden.

Senator Estes offered the following amendment to the bill:

Floor Amendment No. 2

Amend **HB 2329** (Senate Committee Printing) as follows:

(1) In SECTION 1 of the bill, in added Article 7B.01(a), Code of Criminal Procedure (page 1, line 22), between "the applicant and the" and "alleged", insert "offender or".

(2) In SECTION 1 of the bill, in added Article 7B.01(b)(2), Code of Criminal Procedure (page 1, line 29), between "in which the" and "alleged", insert "offender or".

(3) In SECTION 1 of the bill, in added Article 7B.02, Code of Criminal Procedure (page 1, 36) between "to the" and "alleged", insert "offender or".

(4) In SECTION 1 of the bill, in the heading to proposed Article 7B.03, Code of Criminal Procedure (page 1, line 39) between "ISSUANCE OF" and "PROTECTIVE", insert "TEMPORARY PRETRIAL".

(5) In SECTION 1 of the bill, in proposed Article 7B.03(a), Code of Criminal Procedure (page 1, line 43), between "offense" and "under", insert "for which the subject of the protective order has been charged".

(6) In SECTION 1 of the bill, in proposed Article 7B.03(b), Code of Criminal Procedure (page 1, line 49), between "offense" and "under", insert "for which the subject of the protective order has been charged".

(7) In SECTION 1 of the bill, in proposed Article 7B.03(b), Code of Criminal Procedure (page 1, line 53), between "issue a" and "protective", insert "temporary".

(8) In SECTION 1 of the bill, in proposed Article 7B.03(b), Code of Criminal Procedure (page 1, line 54), before the underlined period, insert " , to be effective until the date the alleged offender is convicted or acquitted, or until the date on which the case involving the offense under Section 20A.02, Penal Code, is finally disposed."

(9) In SECTION 1 of the bill, in proposed Chapter 7B, Code of Criminal Procedure (page 1, between lines 54 and 55), insert the following proposed article of the chapter, and renumber subsequent articles of the chapter accordingly:

Art. 7B.04. REQUIRED FINDINGS; ISSUANCE OF POST-TRIAL PROTECTIVE ORDER. (a) At the close of a hearing on an application for a protective order under this chapter, the court shall find whether there are reasonable grounds to believe that the applicant is the victim of an offense for which the subject of the protective order has been convicted under Section 20A.02, Penal Code, and:

(1) is younger than 18 years of age; or

(2) regardless of age, is the subject of a threat that reasonably places the applicant in fear of further harm from the alleged offender.

(b) If the court finds reasonable grounds to believe that the applicant is the victim of an offense for which the subject of the protective order has been convicted under Section 20A.02, Penal Code, and is younger than 18 years of age, or regardless of age, the subject of a threat that reasonably places the applicant in fear of further harm from the offender, the court shall issue a protective order that includes a statement of the required findings.

(10) In SECTION 1 of the bill, in added Article 7B.05(a)(1), Code of Criminal Procedure (page 1, line 61) between "order the" and "alleged", insert "offender or".

(11) In SECTION 1 of the bill, in added Article 7B.05(a)(2), Code of Criminal Procedure (page 2, line 2) between "prohibit the" and "alleged", insert "offender or".

(12) In SECTION 1 of the bill, in added Article 7B.05(b), Code of Criminal Procedure (page 2, line 20) between "that the" and "alleged", insert "offender or".

(13) In SECTION 1 of the bill, in added Article 7B.05(c), Code of Criminal Procedure (page 2, line 26) between "by the" and "alleged", insert "offender or".

(14) In SECTION 1 of the bill, in added Article 7B.06(b), Code of Criminal Procedure (page 2, line 39) strike "IS" and substitute "MAY BE".

(15) In SECTION 1 of the bill, in the heading to proposed Article 7B.07, Code of Criminal Procedure (page 2, line 53), between "OF" and "PROTECTIVE", insert "POST-TRIAL".

(16) In SECTION 1 of the bill, strike proposed Article 7B.07(d), Code of Criminal Procedure (page 2, line 68 through page 3, line 4), and reletter subsequent subsections of the article accordingly.

The amendment to **HB 2329** was read and was adopted by a viva voce vote.

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

Absent-excused: Ogden.

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

HB 2329 as amended was passed to third reading by a viva voce vote.

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

Absent-excused: Ogden.

HOUSE BILL 2329 ON THIRD READING

Senator Van de Putte moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2329** be placed on its third reading and final passage.

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

Absent-excused: Ogden.

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

HOUSE BILL 2792 ON SECOND READING

On motion of Senator Hegar and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2792** at this time on its second reading:

HB 2792, Relating to the power of the Aransas County Navigation District to determine the amount of a check or bond necessary to purchase land from the district.

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: Ogden.

HOUSE BILL 2792 ON THIRD READING

Senator Hegar moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2792** be placed on its third reading and final passage.

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

Absent-excused: Ogden.

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

COMMITTEE SUBSTITUTE

HOUSE BILL 2663 ON SECOND READING

On motion of Senator Seliger and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 2663** at this time on its second reading:

CSHB 2663, Relating to the effect of rules and standards adopted by the Railroad Commission of Texas relating to the liquefied petroleum gas industry on ordinances, orders, or rules adopted by political subdivisions relating to that industry.

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: Ogden.

**COMMITTEE SUBSTITUTE
HOUSE BILL 2663 ON THIRD READING**

Senator Seliger moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2663** be placed on its third reading and final passage.

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

Absent-excused: Ogden.

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 1400 ON SECOND READING**

On motion of Senator West and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 1400** at this time on its second reading:

CSHB 1400, Relating to the boundaries and financing of public improvement districts designated by a municipality or county.

The bill was read second time.

Senator West offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 1400** (senate committee printing) in SECTION 5 of the bill, in added Section 372.031, Local Government Code, by striking Subsection (d) (page 2, lines 28-30) and substituting the following:

(d) When a municipality or county subject to this section submits bonds or obligations payable from assessments to the attorney general for approval and examination, the municipality or county must demonstrate compliance with this section. The attorney general shall adopt rules in accordance with Chapter 1202, Government Code, that require the municipality or county to demonstrate the municipality's or county's:

(1) ability to repay the bonds or obligations; and

(2) compliance with the requirements of this subchapter.

The amendment to **CSHB 1400** was read and was adopted by a viva voce vote.

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

Absent-excused: Ogden.

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

CSHB 1400 as amended was passed to third reading by a viva voce vote.

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

Absent-excused: Ogden.

COMMITTEE SUBSTITUTE HOUSE BILL 1400 ON THIRD READING

Senator West moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1400** be placed on its third reading and final passage.

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

Absent-excused: Ogden.

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

HOUSE BILL 963 ON SECOND READING

Senator Rodriguez moved to suspend the regular order of business to take up for consideration **HB 963** at this time on its second reading:

HB 963, Relating to the costs associated with proceedings regarding cruelly treated animals.

The motion prevailed.

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

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

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

Nays: Patrick.

Absent-excused: Ogden.

Absent: Williams.

HOUSE BILL 963 ON THIRD READING

Senator Rodriguez moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 963** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 1.

Nays: Patrick.

Absent-excused: Ogden.

Absent: Williams.

The bill was read third time and was passed by the following vote: Yeas 28, Nays 1. (Same as previous roll call)

**COMMITTEE SUBSTITUTE
HOUSE BILL 2761 ON SECOND READING**

On motion of Senator West and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 2761** at this time on its second reading:

CSHB 2761, Relating to meetings, elections, and records of certain property owners' associations.

The bill was read second time.

Senator West offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 2761** (senate committee printing) as follows:

(1) In SECTION 2 of the bill, in the recital (page 3, line 68), strike "Sections 209.0051 and 209.0056" and substitute "Sections 209.0051, 209.0056, 209.0057, 209.0058, 209.0059, 209.00591, 209.00592, and 209.00593".

(2) In SECTION 2 of the bill, following added Section 209.0056, Property Code (page 6, between lines 2 and 3), insert the following:

Sec. 209.0057. RECOUNT OF VOTES. (a) This section does not apply to a property owners' association that is subject to Chapter 552, Government Code, by application of Section 552.0036, Government Code.

(b) Any owner may, not later than the 15th day after the date of the meeting at which the election was held, require a recount of the votes. A demand for a recount must be submitted in writing either:

(1) by certified mail, return receipt requested, or by delivery by the United States Postal Service with signature confirmation service to the property owners' association's mailing address as reflected on the latest management certificate filed under Section 209.004; or

(2) in person to the property owners' association's managing agent as reflected on the latest management certificate filed under Section 209.004 or to the address to which absentee and proxy ballots are mailed.

(c) The property owners' association shall, at the expense of the owner requesting the recount, retain for the purpose of performing the recount, the services of a person qualified to tabulate votes under this subsection. The association shall enter into a contract for the services of a person who:

(1) is not a member of the association or related to a member of the association board within the third degree by consanguinity or affinity, as determined under Chapter 573, Government Code; and

(2) is:

(A) a current or former:

(i) county judge;

(ii) county elections administrator;

(iii) justice of the peace; or

(iv) county voter registrar; or

(B) a person agreed on by the association and the persons requesting the recount.

(d) Any recount under Subsection (b) must be performed on or before the 30th day after the date of receipt of a request and payment for a recount in accordance with Subsections (b) and (c). If the recount changes the results of the election, the property owners' association shall reimburse the requesting owner for the cost of the recount. The property owners' association shall provide the results of the recount to each owner who requested the recount. Any action taken by the board in the period between the initial election vote tally and the completion of the recount is not affected by any recount.

Sec. 209.0058. BALLOTS. (a) Any vote cast in an election or vote by a member of a property owners' association must be in writing and signed by the member.

(b) Electronic votes cast under Section 209.00592 constitute written and signed ballots.

(c) In an association-wide election, written and signed ballots are not required for uncontested races.

Sec. 209.0059. RIGHT TO VOTE. (a) A provision in a dedicatory instrument that would disqualify a property owner from voting in a property owners' association election of board members or on any matter concerning the rights or responsibilities of the owner is void.

(b) This section does not apply to a property owners' association that is subject to Chapter 552, Government Code, by application of Section 552.0036, Government Code.

Sec. 209.00591. BOARD MEMBERSHIP. (a) Except as provided by this section, a provision in a dedicatory instrument that restricts a property owner's right to run for a position on the board of the property owners' association is void.

(b) If a board is presented with written, documented evidence from a database or other record maintained by a governmental law enforcement authority that a board member has been convicted of a felony or crime involving moral turpitude, the board member is immediately ineligible to serve on the board of the property owners' association, automatically considered removed from the board, and prohibited from future service on the board.

(c) The declaration may provide for a period of declarant control of the association during which a declarant, or persons designated by the declarant, may appoint and remove board members and the officers of the association, other than board members or officers elected by members of the property owners' association. Regardless of the period of declarant control provided by the declaration, on or before the 120th day after the date 75 percent of the lots that may be created and made subject to the declaration are conveyed to owners other than a declarant, at least one-third of the board members must be elected by owners other than the declarant. If the declaration does not include the number of lots that may be created and made subject to the declaration, at least one-third of the board members must be elected by owners other than the declarant not later than the 10th anniversary of the date the declaration was recorded.

Sec. 209.00592. VOTING; QUORUM. (a) The voting rights of an owner may be cast or given:

- (1) in person or by proxy at a meeting of the property owners' association;
- (2) by absentee ballot in accordance with this section;
- (3) by electronic ballot in accordance with this section; or
- (4) by any method of representative or delegated voting provided by a

dedicatory instrument.

(b) An absentee or electronic ballot:

(1) may be counted as an owner present and voting for the purpose of establishing a quorum only for items appearing on the ballot;

(2) may not be counted, even if properly delivered, if the owner attends any meeting to vote in person, so that any vote cast at a meeting by a property owner supersedes any vote submitted by absentee or electronic ballot previously submitted for that proposal; and

(3) may not be counted on the final vote of a proposal if the motion was amended at the meeting to be different from the exact language on the absentee or electronic ballot.

(c) A solicitation for votes by absentee ballot must include:

(1) an absentee ballot that contains each proposed action and provides an opportunity to vote for or against each proposed action;

(2) instructions for delivery of the completed absentee ballot, including the delivery location; and

(3) the following language: "By casting your vote via absentee ballot you will forgo the opportunity to consider and vote on any action from the floor on these proposals, if a meeting is held. This means that if there are amendments to these proposals your votes will not be counted on the final vote on these measures. If you desire to retain this ability, please attend any meeting in person. You may submit an absentee ballot and later choose to attend any meeting in person, in which case any in-person vote will prevail."

(d) For the purposes of this section, "electronic ballot" means a ballot:

(1) given by:

(A) e-mail;

(B) facsimile; or

(C) posting on an Internet website;

(2) for which the identity of the property owner submitting the ballot can be confirmed; and

(3) for which the property owner may receive a receipt of the electronic transmission and receipt of the owner's ballot.

(e) If an electronic ballot is posted on an Internet website, a notice of the posting shall be sent to each owner that contains instructions on obtaining access to the posting on the website.

(f) This section supersedes any contrary provision in a dedicatory instrument.

(g) This section does not apply to a property owners' association that is subject to Chapter 552, Government Code, by application of Section 552.0036, Government Code.

Sec. 209.00593. ELECTION OF BOARD MEMBERS. (a) Notwithstanding any provision in a dedicatory instrument, any board member whose term has expired must be elected by owners who are members of the property owners' association. A board member may be appointed by the board only to fill a vacancy caused by a resignation, death, or disability. A board member appointed to fill a vacant position shall serve the unexpired term of the predecessor board member.

(b) The board of a property owners' association may amend the bylaws of the property owners' association to provide for elections to be held as required by Subsection (a).

(c) The appointment of a board member in violation of this section is void.

(d) This section does not apply to the appointment of a board member during a development period. In this subsection, "development period" means a period stated in a declaration during which a declarant reserves:

(1) a right to facilitate the development, construction, and marketing of the subdivision; and

(2) a right to direct the size, shape, and composition of the subdivision.

(e) This section does not apply to a representative board whose members or delegates are elected or appointed by representatives of a property owners' association who are elected by owner members of a property owners' association.

(3) In SECTION 5 of the bill, insert the following appropriately designated subsection and redesignate subsections of the SECTION accordingly:

() Section 209.0059 and Subsection (a), Section 209.00591, Property Code, as added by this Act, apply to a provision in a dedicatory instrument or a restrictive covenant enacted before, on, or after the effective date of this Act.

(4) Add the following appropriately numbered SECTION to the bill and renumber SECTIONS of the bill accordingly:

SECTION ____ . Section 209.003, Property Code, is amended by adding Subsection (e) to read as follows:

(e) The following provisions of this chapter do not apply to a property owners' association that is a mixed-use master association that existed before January 1, 1974, and that does not have the authority under a dedicatory instrument or other governing document to impose fines:

(1) Section 209.005(c);

(2) Section 209.0056;

(3) Section 209.0057;

(4) Section 209.0058; and

(5) Section 209.00592.

The amendment to **CSHB 2761** was read and was adopted by a viva voce vote.

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

Absent-excused: Ogden.

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

CSHB 2761 as amended was passed to third reading by a viva voce vote.

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

Absent-excused: Ogden.

**COMMITTEE SUBSTITUTE
HOUSE BILL 2761 ON THIRD READING**

Senator West moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2761** be placed on its third reading and final passage.

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

Absent-excused: Ogden.

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

HOUSE BILL 2872 ON SECOND READING

Senator Davis moved to suspend the regular order of business to take up for consideration **HB 2872** at this time on its second reading:

HB 2872, Relating to restrictions on the sale of certain motor vehicles at vehicle shows or exhibitions.

The motion prevailed.

Senator Seliger 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: Seliger.

Absent-excused: Ogden.

HOUSE BILL 2872 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 2872** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Seliger.

Absent-excused: Ogden.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 1. (Same as previous roll call)

HOUSE BILL 2466 ON SECOND READING

The Presiding Officer, Senator Eltife in Chair, laid before the Senate **HB 2466** sponsored by Senator Carona on its second reading. The bill had been read second time, an amendment offered, and further consideration temporarily postponed:

HB 2466, Relating to the licensing and operation of motor vehicles by minors.

Question — Shall Floor Amendment No. 1 to **HB 2466** be adopted?

Senator Hegar again offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 2466** (Senate committee printing) as follows:

(1) In SECTION 2 of the bill, in Section 521.296, Transportation Code (page 1, line 54), strike "or 521.2965".

(2) Strike SECTION 4 of the bill and renumber subsequent sections accordingly.

The amendment to **HB 2466** was again read and was adopted by a viva voce vote.

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

Absent-excused: Ogden.

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

HB 2466 as amended was passed to third reading by a viva voce vote.

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

Absent-excused: Ogden.

HOUSE BILL 2466 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 2466** be placed on its third reading and final passage.

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

Absent-excused: Ogden.

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 9 ON SECOND READING**

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 9** at this time on its second reading:

CSHB 9, Relating to student success-based funding for and reporting regarding public institutions of higher education.

The bill was read second time.

Senator Watson offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 9** (Senate Committee Printing) in SECTION 3 of the bill, in added Section 61.0593(d), Education Code, by striking page 2, lines 41 through 52, and substituting the following:

(d) This subsection applies only to a general academic teaching institution other than a public state college. In devising its funding formulas and making its recommendations to the legislature relating to institutional appropriations of funds under Section 61.059 for institutions to which this subsection applies, the board, in the manner and to the extent the board considers appropriate and in consultation with those institutions, shall incorporate the consideration of undergraduate student success measures achieved during the preceding state fiscal biennium by each of the institutions. At the time the board makes those recommendations, the board shall also make recommendations for incorporating the success measures, to the extent the board considers appropriate in consultation with those institutions, into the distribution of any incentive funds available for those institutions, including performance incentive funds under Subchapter D, Chapter 62. The board's recommendations must provide alternative approaches for applying the success measures and must compare the effects on funding of applying the success measures within the formula for base funding to applying the success measures as a separate formula. The success measures considered by the board under this subsection may include:

The amendment to **CSHB 9** was read and was adopted by a viva voce vote.

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

Absent-excused: Ogden.

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

CSHB 9 as amended was passed to third reading by a viva voce vote.

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

Absent-excused: Ogden.

**COMMITTEE SUBSTITUTE
HOUSE BILL 9 ON THIRD READING**

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 9** be placed on its third reading and final passage.

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

Absent-excused: Ogden.

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

**MOTION TO PLACE
HOUSE BILL 971 ON SECOND READING**

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

HB 971, Relating to 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.

Senator Fraser withdrew the motion to suspend the regular order of business.

HOUSE BILL 2365 ON SECOND READING

On motion of Senator Shapiro and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2365** at this time on its second reading:

HB 2365, Relating to certain responsibilities of education research centers and to a joint advisory board for education research centers.

The bill was read second time.

Senator Shapiro offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 2365** (senate committee report) as follows:

(1) In SECTION 1 of the bill, in the introductory language (page 1, line 13), between "(g-1)," and "(l)", insert "(g-2),".

(2) In SECTION 1 of the bill, in amended Section 1.005(e), Education Code (page 1, line 22), between "state" and ":", insert ", giving priority to projects required under Subsection (f)(1)".

(3) In SECTION 1 of the bill, strike Section 1.005(g)(1), Education Code (page 1, lines 24-29), and substitute the following:

(1) may use and store data [~~on student performance~~], including data that is confidential under the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g), [~~the center has collected~~] from the Texas Education Agency, the coordinating board, any other state agency, any public or private institution of higher education, ~~and~~ any school district, any provider of services to public or private institutions of higher education or to school districts, and any entity explicitly named in an approved research project of a center; and

(4) In SECTION 1 of the bill, immediately following added Section 1.005(g-1), Education Code (page 1, between lines 44 and 45), insert the following:

(g-2) The Texas Education Agency and the coordinating board shall longitudinally link all data under Subsection (g)(1), to the greatest extent practicable.

(5) In SECTION 1 of the bill, in amended Section 1.005(k), Education Code (page 1, line 54), following "the center.", insert the following:

A center shall report annually to the commissioner of education and the commissioner of higher education the total amount of fees collected by the center for each purpose for which a fee is imposed under Subsection (h)(2).

(6) In SECTION 1 of the bill, in added Section 1.005(m), Education Code (page 1, line 59), strike "On behalf" and substitute "Subject to Subsection (n), on behalf".

(7) In SECTION 1 of the bill, following added Section 1.005(m), Education Code (page 2, between lines 1 and 2), insert the following:

(n) The commissioner of education and the coordinating board may, on behalf of a center, enter into a data agreement with the state education agency of another state only if:

(1) the United States Department of Education reviews the agreement; and

(2) the state education agency of the other state agrees to comply with all data security measures required of a center.

(8) In SECTION 2 of the bill, in added Section 1.006(c), Education Code (page 2, line 17), strike "three" and substitute "10".

(9) In SECTION 2 of the bill, in added Section 1.006(c), Education Code (page 2, lines 19-22), strike "The chief executive officer of each public institution of higher education of which a center is a part shall appoint not more than two additional members to the joint advisory board to serve one-year terms.", and substitute "The joint advisory board must include at least two educational researchers experienced in working with secure data.".

(10) In SECTION 2 of the bill, in added Section 1.006(c), Education Code (page 2, line 23), strike "appropriate appointing authority" and substitute "commissioner of education and the commissioner of higher education".

The amendment to **HB 2365** was read and was adopted by a viva voce vote.

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

Absent-excused: Ogden.

Senator Shapiro offered the following amendment to the bill:

Floor Amendment No. 2

Amend **HB 2365** (senate committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION ____ . Section 51.751, Education Code, is amended by amending Subsections (a), (b), and (c) and adding Subsection (e) to read as follows:

(a) ~~The Educational Economic Policy Center [is created as a consortium of universities. Each public senior college or university in the state shall participate in the Educational Economic Policy Center at the request of the governor. The center]~~ shall represent business, finance, public policy, ~~[education,~~ and other appropriate disciplines.

(b) ~~The center shall examine the efficiency of the public school system and [the effectiveness of instructional methods and curricular programs and promote the use of successful methods and programs. The center shall monitor and evaluate the~~

~~implementation of the accountability system under Chapter 39 and] provide annual progress reports to the governor, Legislative Budget Board, and commissioner of education.~~

(c) The center may be funded by donations, grants, and legislative appropriations. ~~[The office of the governor may receive grants and donations for the purposes of this subchapter.]~~

(e) In performing its duties under this section, the center may use research conducted by an education research center established under Section 1.005.

SECTION ____ . Sections 51.752(b), (d), and (g), Education Code, are amended to read as follows:

(b) The committee is composed of three ~~[nine]~~ members. The governor, lieutenant governor, and speaker of the house of representatives shall each appoint one member ~~[two members, only one of whom may be a board member or employee of a public school district, college, or university]~~. Those appointees shall include persons in the private sector who have an interest in improving public education. ~~[In addition, the governor shall appoint three members who serve on the boards of regents representing the universities or systems participating in the center.]~~

(d) The ~~[governor shall appoint one member of the]~~ committee shall elect a ~~[as the]~~ chairman from among its members.

(g) The committee shall report to the Legislative Budget Board at least once a year. The committee shall also report to the governor, the State Board of Education, ~~[the Texas Higher Education Coordinating Board,]~~ and the legislature before the convening of each regular session.

SECTION ____ . The terms of members of the Educational Economic Policy Committee serving on the effective date of this Act expire February 1, 2012, and members shall be appointed in accordance with Section 51.752(b), Education Code, as amended by this Act, for terms to begin February 1, 2012. Members whose terms begin February 1, 2012, shall draw lots to determine which two members will serve terms expiring February 1, 2014, and which member will serve a term expiring February 1, 2013.

The amendment to **HB 2365** was read and was adopted by a viva voce vote.

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

Absent-excused: Ogden.

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

HB 2365 as amended was passed to third reading by a viva voce vote.

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

Absent-excused: Ogden.

HOUSE BILL 2365 ON THIRD READING

Senator Shapiro moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2365** be placed on its third reading and final passage.

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

Absent-excused: Ogden.

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

RECESS

On motion of Senator Whitmire, the Senate at 6:51 p.m. recessed until 7:30 p.m. today.

AFTER RECESS

The Senate met at 7:45 p.m. and was called to order by Senator Eltife.

**COMMITTEE SUBSTITUTE
HOUSE BILL 3 ON SECOND READING**

On motion of Senator Huffman and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 3** at this time on its second reading:

CSHB 3, Relating to the imposition of a sentence of life without parole on certain defendants who commit certain sexual offenses.

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: Ogden.

**COMMITTEE SUBSTITUTE
HOUSE BILL 3 ON THIRD READING**

Senator Huffman moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 3** be placed on its third reading and final passage.

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

Absent-excused: Ogden.

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 1754 ON SECOND READING**

Senator Wentworth moved to suspend the regular order of business to take up for consideration **CSHB 1754** at this time on its second reading:

CSHB 1754, Relating to the reorganization of powers and duties among agencies in this state that provide representation to indigent defendants in criminal cases and to the reorganization of funding sources for indigent defense.

The motion prevailed.

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

The bill was read second time.

Senator Wentworth offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 1754** (senate committee printing) in SECTION 1 of the bill as follows:

(1) In added Section 79.035(b)(2)(C), Government Code (page 5, line 7), strike "and".

(2) In added Section 79.035(b)(2)(D), Government Code (page 5, line 9), between "state" and the underlined period, insert the following:
; and

(E) the findings of a report submitted to the commission under Section 79.039

(3) In added Subchapter C, Chapter 79, Government Code (page 6, between lines 35 and 36), insert the following:

Sec. 79.039. EXONERATION REPORT. (a) Each legal clinic or program in this state that is operated by a law school and that receives financial support from the commission shall submit to the commission an annual report regarding criminal cases:

(1) in which the clinic or program has provided legal services to an indigent defendant during the preceding calendar year; and

(2) in which:

(A) based on a finding of actual innocence, the court of criminal appeals overturns a conviction; or

(B) the governor issues a pardon based on actual innocence.

(b) The report required under Subsection (a) must:

(1) identify each likely cause of a wrongful conviction listed in the report;
and

(2) recommend to the judiciary and the legislature best practices, policies, and statutory changes to address or mitigate those likely causes with respect to future criminal cases.

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

SECTION _____. Not later than December 1, 2012, each legal clinic or program in this state that is operated by a law school and that receives financial support from the Texas Indigent Defense Commission shall submit the initial report required by Section 79.039, Government Code, as added by this Act.

The amendment to **CSHB 1754** was read and was adopted by a viva voce vote.

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

Nays: Huffman, Nelson.

Absent-excused: Ogden.

Senator Wentworth offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSHB 1754** (senate committee printing) in SECTION 1 of the bill as follows:

(1) In added Section 79.001(3), Government Code (page 1, line 27), strike "agency" and substitute "permanent standing committee of the council".

(2) In added Section 79.002, Government Code (page 1, lines 60 through 61), strike ". The commission is an agency in the judicial branch of this state" and substitute "as a permanent standing committee of the council".

(3) Strike added Section 79.003, Government Code (page 2, lines 1 through 4).

(4) In added Section 79.011(b), Government Code (page 2, line 10), strike "79.038" and substitute "79.033(b)".

(5) Strike added Section 79.033, Government Code (page 3, lines 58 through 61), and substitute the following:

Sec. 79.033. ADMINISTRATIVE ATTACHMENT; SUPPORT; BUDGET. (a) The commission is administratively attached to the Office of Court Administration of the Texas Judicial System.

(b) The office of court administration shall provide administrative support services, including human resources, budgetary, accounting, purchasing, payroll, information technology, and legal support services, to the commission as necessary to carry out the purposes of this chapter.

(c) The commission, in accordance with the rules and procedures of the Legislative Budget Board, shall prepare, approve, and submit a legislative appropriations request that is separate from the legislative appropriations request for the Office of Court Administration of the Texas Judicial System and is used to develop the commission's budget structure. The commission shall maintain the legislative appropriations request and budget structure separately from those of the office of court administration.

(6) Strike added Section 79.038, Government Code (page 6, lines 32 through 35).

The amendment to **CSHB 1754** was read and was adopted by a viva voce vote.

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

Nays: Huffman, Nelson.

Absent-excused: Ogden.

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

CSHB 1754 as amended was passed to third reading by a viva voce vote.

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

Nays: Huffman, Nelson, Williams.

Absent-excused: Ogden.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1754 ON THIRD READING**

Senator Wentworth moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1754** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 3.

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

Nays: Huffman, Nelson, Williams.

Absent-excused: Ogden.

The bill was read third time and was passed by the following vote: Yeas 27, Nays 3. (Same as previous roll call)

**SENATE RULE 7.21 SUSPENDED
(House Amendments to Senate Bills)**

On motion of Senator Watson and by unanimous consent, Senate Rule 7.21, as it relates to the printing and distribution of the House amendments to **SB 768**, was suspended.

SENATE BILL 768 WITH HOUSE AMENDMENTS

Senator Watson called **SB 768** 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.

Floor Amendment No. 1

Amend **SB 768** (house committee printing) as follows:

(1) In SECTION 1 of the bill, strike added Section 8379.004(b), Special District Local Laws Code (page 2, lines 6-15), and substitute the following:

(b) If the city does not consent to the creation of the district under this section before September 1, 2012:

(1) the district is dissolved September 1, 2012, except that:

(A) any debts incurred shall be paid;

(B) any assets that remain after the payment of debts shall be transferred to the city or another local governmental entity to be used for a public purpose; and

(C) the organization of the district shall be maintained until all debts are paid and remaining assets are transferred; and

(2) this chapter expires September 1, 2012.

(2) In SECTION 1 of the bill, in added Section 8379.007, Special District Local Laws Code (page 3, line 20), strike "created by a municipality in which the district is located".

(3) In SECTION 1 of the bill, strike added Section 8379.054(a), Special District Local Laws Code (page 4, lines 20-26), and substitute the following:

(a) The temporary board consists of:

(1) Jeff Frank;

(2) Gordon Westergren;

(3) Steve Soward;

(4) Clint Walker; and

(5) Rob Riviere.

(4) In SECTION 1 of the bill, in added Section 8379.105, Special District Local Laws Code (page 6, lines 7-8), strike "CONSENT ORDINANCE OR RESOLUTION. The district" and substitute "CONSENT AGREEMENT, ORDINANCE, OR RESOLUTION. (a) The district".

(5) In SECTION 1 of the bill, in added Section 8379.105, Special District Local Laws Code (page 6, between lines 12 and 13), insert the following:

(b) Any agreement between the district and the city related to the city's consent to the creation of the district is valid and enforceable.

(c) On the issuance of bonds, the district is considered to have acknowledged and consented to the exercise of the city's authority as to actions taken by the city under Section 54.016(g), Water Code.

(6) In SECTION 1 of the bill, in added Section 8379.108, Special District Local Laws Code (page 7, line 4), strike "RECLAMATION AND GRADING POWERS" and substitute "MASS GRADING AND IMPROVEMENTS TO LAND IN THE DISTRICT".

(7) In SECTION 1 of the bill, in added Section 8379.302(d), Special District Local Laws Code (page 12, line 13), strike "Rio de Vida Municipal Utility District No. 1" and substitute "(insert name of district or name of new district created under Subchapter D)".

(8) In SECTION 1 of the bill, strike added Section 8379.401, Special District Local Laws Code (page 15, lines 9-11), and substitute the following:

Sec. 8379.401. APPLICABILITY OF LAW ON ANNEXATION OF DISTRICT. (a) The district is a "water or sewer district" for the purposes of Section 43.071, Local Government Code.

(b) Sections 43.0561 and 43.0562, Local Government Code, do not apply to the annexation of the district.

(9) In SECTION 1 of the bill, strike added Section 8379.404, Special District Local Laws Code (page 16, lines 1-3).

(10) In SECTION 1 of the bill, in added Section 8379.405, Special District Local Laws Code (page 16, line 4), strike "Sec. 8379.405" and substitute "Sec. 8379.404".

Floor Amendment No. 2

Amend **SB 768** as follows:

(1) In SECTION 1 of the bill, strike added Section 8379.003, Special District Local Laws Code, and substitute the following new Section 8379.003, Special District Local Laws Code:

"Sec. 8379.003. CONFIRMATION AND DIRECTORS' ELECTION REQUIRED. The temporary directors shall hold an election to confirm the creation of the district and to elect permanent directors as provided in Section 8379.051 of this chapter and Section 49.107, Water Code."

(2) In SECTION 1 of the bill, strike added Section 8379.051, Special District Local Laws Code, and substitute the following new Section 8379.051, Special District Local Laws Code:

"Sec. 8379.051. GOVERNING BODY; TERMS. (a) Except as provided by Subsection (b), the district is governed by a board of five elected directors.

(b) If required under the terms of the agreement, ordinance, or resolution by which a municipality consents to the creation of the district, the board consists of:

(1) four elected directors; and

(2) one director appointed by the governing body of the municipality.

(c) A director appointed under Subsection (b)(2) is not required to be a qualified voter of the district or to own land subject to taxation in the district.

(d) Except as provided by Section 8379.052, directors serve staggered four-year terms.

(e) The common law doctrine of incompatibility of office does not disqualify an official or employee of a municipality from being appointed a director by the governing body of a municipality under Subsection (b)(2), and a director appointed to the board may continue to serve in a public office of or be employed by the municipality."

(3) In SECTION 1 of the bill, strike added Sections 8379.052, Special District Local Laws Code, and substitute the following new 8379.052, Special District Local Laws Code:

"Sec. 8379.052. TEMPORARY DIRECTORS. (a) The temporary board consists of:

(1) Jeff Frank;

(2) Gordon Westergren;

(3) Steve Soward;

(4) Clint Walker; and

(5) Rob Riviere.

(b) Temporary directors serve until the earlier of:

(1) the date permanent directors are elected under Section 8379.003; or

(2) the fourth anniversary of the effective date of the Act enacting this chapter.

(c) If permanent directors have not been elected under Section 8379.003 and the terms of the temporary directors have expired, successor temporary directors shall be appointed or reappointed as provided by Subsection (d) to serve terms that expire on the earlier of:

(1) the date permanent directors are elected under Section 8379.003; or

(2) the fourth anniversary of the date of the appointment or reappointment.

(d) If Subsection (c) applies, the owner or owners of a majority of the assessed value of the real property in the district may submit a petition to the commission requesting that the commission appoint as successor temporary directors the five persons named in the petition. The commission shall appoint as successor temporary directors the five persons named in the petition."

(4) In SECTION 1 of the bill, strike added Sections 8379.053 and 8379.054, Special District Local Laws Code, and renumber the sections reserved for expansion accordingly.

The amendments were read.

Senator Watson moved to concur in the House amendments to **SB 768**.

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

Absent-excused: Ogden.

COMMITTEE SUBSTITUTE HOUSE BILL 1103 ON THIRD READING

Senator Ellis again moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1103** be placed on its third reading and final passage:

CSHB 1103, Relating to the civil and criminal consequences of certain criminal offenses involving animal cruelty.

The motion prevailed by the following vote: Yeas 25, Nays 5.

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

Nays: Deuell, Jackson, Nichols, Patrick, Shapiro.

Absent-excused: Ogden.

The bill was read third time.

Senator Seliger offered the following amendment to the bill:

Floor Amendment No. 1 on Third Reading

Amend **CSHB 1103** on third reading as follows:

(1) In SECTION 2 of the bill, in added Article 61A.02, Code of Criminal Procedure (page 1, line 35), strike "; PUBLIC INFORMATION".

(2) In SECTION 2 of the bill, in added Article 61A.02, Code of Criminal Procedure, strike Subsections (c) and (d) (page 1, lines 50-55), and reletter subsequent subsections accordingly.

(3) In SECTION 2 of the bill, in added Article 61A.03, Code of Criminal Procedure (page 2, line 30), strike "PEACE OFFICER" and substitute "LAW ENFORCEMENT".

(4) In SECTION 2 of the bill, in added Article 61A.03, Code of Criminal Procedure (page 2, line 31), between the period and "The", insert the following:

"(a) In this section, "animal control officer" has the meaning assigned by Section 829.001, Health and Safety Code.

(b)".

(5) In SECTION 2 of the bill, in added Article 61A.03, Code of Criminal Procedure (page 2, line 32), strike "or employee" and substitute ", an animal control officer employed by a county or municipality, or an employee".

(6) In SECTION 2 of the bill, strike added Article 61A.04, Code of Criminal Procedure (page 2, lines 41-61) and renumber subsequent articles accordingly.

(7) In SECTION 4 of the bill (page 3, line 49), strike "subsection (e)".

(8) Strike SECTION 3 of the bill, and renumber subsequent SECTIONS accordingly.

The amendment to **CSHB 1103** 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: Ogden.

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

CSHB 1103 as amended was finally passed by the following vote: Yeas 25, Nays 5.

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

Nays: Deuell, Jackson, Nichols, Patrick, Shapiro.

Absent-excused: Ogden.

HOUSE BILL 1517 ON SECOND READING

Senator Hegar moved to suspend the regular order of business to take up for consideration **HB 1517** at this time on its second reading:

HB 1517, Relating to the disposition of fines for traffic violations collected by certain municipalities.

The motion prevailed.

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

The bill was read second time.

Senator Lucio offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 1517** (senate committee report) as follows:

(1) Strike SECTION 1 of the bill (page 1, lines 12-20) and substitute the following:

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

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

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

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

(3) defray the expense of county traffic officers.

(b-1) A county having a population of less than 5,000 may use a fine collected for a violation of a highway law as the county determines appropriate.

(b-2) In each fiscal year, a county having a population of less than 5,000 may retain, from fines collected for violations of this title and from special expenses collected under Article 45.051, Code of Criminal Procedure, in cases in which a violation of this title is alleged, an amount equal to 30 percent of the county's revenue for the preceding fiscal year from all sources, other than federal funds and bond proceeds, as shown by an audit performed under Chapter 115, Local Government Code. After a county has retained that amount, the county shall send to the comptroller any portion of a fine or a special expense collected that exceeds \$1.

(c) The comptroller shall enforce Subsections ~~[Subsection]~~ (b) and (b-1).

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

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

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

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

(f) A municipality may include the revenue of a utility company operating within the municipality as municipal revenue for a fiscal year under Subsection (b) if:

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

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

(2) Add the following appropriately numbered SECTION to the bill and renumber the subsequent SECTION accordingly:

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

The amendment to **HB 1517** was read.

Senator Hegar offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 2

Amend Floor Amendment No. 1 (Lucio) to **HB 1517**, in SECTION 1 of the amendment, in added Section 542.402(f), Transportation Code (page 2, line 17), by striking "of" and substituting "generated from services provided in the municipality by".

The amendment to Floor Amendment No. 1 to **HB 1517** was read and was adopted by a viva voce vote.

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

Absent-excused: Ogden.

Question recurring on the adoption of Floor Amendment No. 1 to **HB 1517**, the amendment as amended was adopted by a viva voce vote.

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

Absent-excused: Ogden.

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

HB 1517 as amended was passed to third reading by a viva voce vote.

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

Nays: Harris.

Absent-excused: Ogden.

HOUSE BILL 1517 ON THIRD READING

Senator Hegar moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1517** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Harris.

Absent-excused: Ogden.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 1. (Same as previous roll call)

HOUSE BILL 1541 ON SECOND READING

On motion of Senator Wentworth and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1541** at this time on its second reading:

HB 1541, Relating to the prevention of automobile burglary and theft.

The bill was read second time.

Senator Williams offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 1541** (senate committee report) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS accordingly:

SECTION _____. Section 10, Article 4413(37), Revised Statutes, is amended by amending Subsection (b) and adding Subsection (e) to read as follows:

(b) An insurer shall pay to the authority a fee equal to \$2 [~~\$1~~] multiplied by the total number of motor vehicle years of insurance for insurance policies delivered, issued for delivery, or renewed by the insurer. The fee shall be paid not later than:

(1) March 1 of each year for a policy issued, delivered, or renewed from July 1 through December 31 of the previous calendar year; and

(2) August 1 of each year for a policy issued, delivered, or renewed from January 1 through June 30 of that year.

(e) Fifty percent of each fee collected under Subsection (b) may be appropriated only to the authority for the purposes of this article.

SECTION _____. The changes in law made by Section 10, Article 4413(37), Revised Statutes, as amended by this Act, apply only to an insurance policy issued, delivered, or renewed on or after the effective date of this Act. An insurance policy issued, delivered, or renewed before the effective date of this Act is governed by the law in effect on the date the insurance policy was issued, delivered, or renewed, and the former law is continued in effect for that purpose.

WILLIAMS
LUCIO

The amendment to **HB 1541** was read and was adopted by a viva voce vote.

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

Nays: Birdwell.

Absent-excused: Ogden.

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

HB 1541 as amended was passed to third reading by a viva voce vote.

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

Absent-excused: Ogden.

HOUSE BILL 1541 ON THIRD READING

Senator Wentworth moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1541** be placed on its third reading and final passage.

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

Absent-excused: Ogden.

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

HOUSE BILL 890 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 890** at this time on its second reading:

HB 890, Relating to certain custom vehicles and street rods.

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: Ogden.

HOUSE BILL 890 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 890** be placed on its third reading and final passage.

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

Absent-excused: Ogden.

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

SENATE CONCURRENT RESOLUTION 58

The Presiding Officer laid before the Senate the following resolution:

WHEREAS, Senate Bill No. 768 has been adopted by the senate and the house of representatives and is being prepared for enrollment; and

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

RESOLVED by the 82nd Legislature of the State of Texas, That the enrolling clerk of the senate be instructed to correct Senate Bill No. 768 as follows:

(1) In SECTION 1 of the bill, in Section 8379.003, Special District Local Laws Code, as added by House Floor Amendment No. 2 (2nd reading), strike "Section 49.107" and substitute "Section 49.102".

(2) In SECTION 1 of the bill, at the end of Subsection (d), Section 8379.051, Special District Local Laws Code, as added by House Floor Amendment No. 2 (2nd reading), add the following: "A permanent director may not serve more than two four-year terms.".

LUCIO

SCR 58 was read.

On motion of Senator Lucio, the resolution was considered immediately and was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Ogden.

HOUSE BILL 971 ON SECOND READING

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

HB 971, Relating to 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.

The motion prevailed without objection.

The bill was read second time.

Senator Fraser offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **HB 971** as follows:

(1) In SECTION 1 of the bill, in the introductory language (page 1, line 7), between "(c)" and "to" insert "and Subsection (d)".

(2) In SECTION 1 of the bill, in amended Section 37.053, Utilities Code (page 1, between lines 10 and 11), insert the following:

(d) For transmission facilities ordered or approved by the commission under Chapters 37 or 39 to mitigate market power in accordance with Section 39.157(a), address reliability needs, or to otherwise ensure the competitiveness of electricity markets in this state, the rights extended to an electric corporation under Section 181.004 extend to all public and private land on which the commission has approved the construction of the line. This subsection does not limit a municipality's rights or an electric utility's obligations under Chapter 33.

(3) In SECTION 3 of the bill (page 1, line 14), strike "This Act" and substitute "The change in law made by this Act to Section 37.053(c), Utilities Code,".

The amendment to **HB 971** was read.

Senator Fraser offered the following amendment to Committee Amendment No. 1:

Floor Amendment No. 1

Amend Committee Amendment No. 1 to **HB 971** (Committee report) as follows:

(1) On page 1, lines 16-19, in added Section 37.053(d), strike "to mitigate market power in accordance with Section 39.157(a), address reliability needs, or to otherwise ensure the competitiveness of electricity markets in this state".

(2) On page 1, line 20, in added Section 37.053(d), strike "extend to all public and private land" and substitute "include all public land, except land owned by the state,".

(3) On page 1, line 23, in added Section 37.053(d), after ":", insert "Nothing in this subsection shall be interpreted to prevent a public entity from expressing a route preference in a proceeding under this chapter."

The amendment to Committee Amendment No. 1 to **HB 971** was read and was adopted by a viva voce vote.

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

Absent-excused: Ogden.

Question recurring on the adoption of Committee Amendment No. 1 to **HB 971**, the amendment as amended was adopted by a viva voce vote.

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

Absent-excused: Ogden.

Senator Hegar offered the following amendment to the bill:

Floor Amendment No. 2

Amend **HB 971** (senate committee report) by adding the following appropriately numbered SECTION and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION _____. (a) Section 37.056, Utilities Code, is amended by adding Subsection (d) to read as follows:

(d) The commission by rule shall establish criteria, in addition to the criteria described by Subsection (c), for granting a certificate for a transmission project that serves the ERCOT power region, that is not necessary to meet state or federal reliability standards, and that does not serve a competitive renewable energy zone. The criteria must include a comparison of the estimated cost of the transmission project and the estimated cost savings that may result from the transmission project. The commission shall include with its decision on an application for a certificate to which this subsection applies findings on the criteria.

(b) The change in law made by this section applies only to a certificate application filed with the Public Utility Commission of Texas on or after the effective date of this Act and to a certificate application pending on the effective date of this Act. A certificate application filed with the Public Utility Commission of Texas before the effective date of this Act and not pending on the effective date of this Act is subject to the law in effect on the date the application is filed, and that law is continued in effect for that purpose.

The amendment to **HB 971** was read and was adopted by a viva voce vote.

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

Absent-excused: Ogden.

(President in Chair)

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

HB 971 as amended was passed to third reading by a viva voce vote.

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

Absent-excused: Ogden.

HOUSE BILL 971 ON THIRD READING

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

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

Absent-excused: Ogden.

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

**MOTION TO PLACE
HOUSE BILL 1937 ON SECOND READING**

Senator Patrick moved to suspend the regular order of business to take up for consideration **HB 1937** at this time on its second reading:

HB 1937, Relating to prosecution and punishment for the offense of official oppression by the intrusive touching of persons seeking access to public buildings and transportation; providing penalties.

Senator Patrick withdrew the motion to suspend the regular order of business.

SENATE BILL 1338 WITH HOUSE AMENDMENT

Senator Eltife called **SB 1338** from the President's table for consideration of the House amendment to the bill.

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

Floor Amendment No. 1

Amend **SB 1338** (house committee report) by striking page 2, line 26, through page 3, line 15.

The amendment was read.

Senator Eltife moved that the Senate do not concur in the House amendment, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **SB 1338** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate: Senators Eltife, Chair; Uresti, Seliger, Hegar, and Zaffirini.

SENATE BILL 958 WITH HOUSE AMENDMENTS

Senator Wentworth called **SB 958** from the President's table for consideration of the House amendments to the bill.

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

Amendment

Amend **SB 958** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to the regulation of dangerous wild animals.

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

SECTION 1. Section 822.101, Health and Safety Code, is amended by adding Subdivision (8) to read as follows:

(8) "Wildlife sanctuary" means a public charitable organization that:

(A) is exempt from taxation under Section 501(a), Internal Revenue Code of 1986, by being listed as an exempt organization under Section 501(c)(3) of that code;

(B) is described by Section 170(b)(1)(A)(vi), Internal Revenue Code of 1986;

(C) operates a place of refuge where an abused, neglected, unwanted, impounded, abandoned, orphaned, or displaced wild animal is:

(i) provided care for the animal's lifetime;

(ii) transferred to another wildlife sanctuary; or

(iii) released back to the animal's natural habitat; and

(D) with respect to a wild animal owned by the organization, does not:

(i) conduct any commercial activity; or

(ii) breed the animal.

SECTION 2. Section 822.102(a), Health and Safety Code, is amended to read as follows:

(a) This subchapter does not apply to:

(1) a county, municipality, or agency of the state or an agency of the United States or an agent or official of a county, municipality, or agency acting in an official capacity;

(2) a research facility, as that term is defined by Section 2(e), Animal Welfare Act (7 U.S.C. Section 2132), and its subsequent amendments, that is licensed by the secretary of agriculture of the United States under that Act;

(3) an organization that is an accredited member of the American Zoo and Aquarium Association;

(4) an injured, infirm, orphaned, or abandoned dangerous wild animal while being transported for care or treatment;

(5) a sick or ~~[an]~~ injured~~[-infirm, orphaned, or abandoned]~~ dangerous wild animal while being rehabilitated or~~[;]~~ treated~~[-or cared for]~~ by and in the temporary possession of a licensed veterinarian~~[-an incorporated humane society or animal shelter,]~~ or a person who holds a rehabilitation permit issued under Subchapter C, Chapter 43, Parks and Wildlife Code, for the animal being rehabilitated or treated;

(6) a dangerous wild animal owned by and in the custody and control of a transient circus company that is not based in this state if:

(A) the animal is used as an integral part of the circus performances; and

(B) the animal is kept within this state only during the time the circus is performing in this state or for a period not to exceed 30 days while the circus is performing outside the United States;

(7) a dangerous wild animal while in the temporary custody or control of a television or motion picture production company during the filming of a television or motion picture production in this state;

(8) a dangerous wild animal owned by and in the possession, custody, or control of a college or university solely as a mascot for the college or university;

(9) a dangerous wild animal while being transported in interstate commerce through the state in compliance with the Animal Welfare Act (7 U.S.C. Section 2131 et seq.) and its subsequent amendments and the regulations adopted under that Act;

(10) a nonhuman primate owned by and in the control and custody of a person whose only business is supplying nonhuman primates directly and exclusively to biomedical research facilities and who holds a Class "A" or Class "B" dealer's license issued by the secretary of agriculture of the United States under the Animal Welfare Act (7 U.S.C. Section 2131 et seq.) and its subsequent amendments;

(11) a dangerous wild animal that is:

(A) owned by or in the possession, control, or custody of a person who is a participant in a species survival plan of the American Zoo and Aquarium Association for that species; and

(B) an integral part of that species survival plan; ~~[and]~~

(12) in a county west of the Pecos River that has a population of less than 25,000, a cougar, bobcat, or coyote in the possession, custody, or control of a person that has trapped the cougar, bobcat, or coyote as part of a predator or depredation control activity;

(13) an organization that is an accredited member of the Zoological Association of America; and

(14) a wildlife sanctuary that is verified or accredited by:

(A) the Global Federation of Animal Sanctuaries; or

(B) a successor nonprofit organization that is similar to the Global Federation of Animal Sanctuaries and is designated by the Department of State Health Services if the Global Federation of Animal Sanctuaries ceases to exist.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2011.

Floor Amendment No. 1

Amend **CSSB 958** (house committee printing) in SECTION 1 of the bill, in added Section 822.101(8)(D)(i), Health and Safety Code (page 1, line 24), between "activity" and the underlined semi-colon, by inserting "or any research activity that threatens the health and safety of the wild animal".

Floor Amendment No. 2

Amend **CSSB 958** (house committee report) as follows:

(1) In SECTION 2 of the bill, in added Section 822.102(a)(14), Health and Safety Code (page 4, line 10), between "wildlife" and "sanctuary", insert "or animal".

(2) In SECTION 2 of the bill, in added Section 822.102(a)(14)(A), Health and Safety Code (page 4, lines 12-13), strike "; or" and substitute the following:

;

(B) the American Sanctuary Association; or

(3) In SECTION 2 of the bill, in added Section 822.102(a)(14), Health and Safety Code (page 4, line 14), reletter paragraphs appropriately.

Floor Amendment No. 3

Amend **CSSB 958** by adding the following:

SECTION 1. Section 822.101, Health and Safety Code, is amended by adding Subdivision (6-a) to read as follows:

(6-a) "Predatory animal" means:

(A) a lion;

(B) a tiger;

(C) a cougar;

(D) a leopard;

(E) a cheetah;

(F) a jaguar;

(G) any hybrid of an animal listed in this subdivision.

SECTION 2. Section 822.102(a), Health and Safety Code, is amended to read as follows:

(a) This subchapter does not apply to:

(1) a county, municipality, or agency of the state or an agency of the United States or an agent or official of a county, municipality, or agency acting in an official capacity;

(2) a research facility, as that term is defined by Section 2(e), Animal Welfare Act (7 U.S.C. Section 2132), and its subsequent amendments, that is licensed by the secretary of agriculture of the United States under that Act;

(3) an organization that is an accredited member of the American Zoo and Aquarium Association;

(4) an injured, infirm, orphaned, or abandoned dangerous wild animal while being transported for care or treatment;

(5) an injured, infirm, orphaned, or abandoned dangerous wild animal while being rehabilitated, treated, or cared for by a licensed veterinarian, an incorporated humane society or animal shelter, or a person who holds a rehabilitation permit issued under Subchapter C, Chapter 43, Parks and Wildlife Code;

(6) a dangerous wild animal owned by and in the custody and control of a transient circus company that is not based in this state if:

(A) the animal is used as an integral part of the circus performances; and

(B) the animal is kept within this state only during the time the circus is performing in this state or for a period not to exceed 30 days while the circus is performing outside the United States;

(7) a dangerous wild animal while in the temporary custody or control of a television or motion picture production company during the filming of a television or motion picture production in this state;

(8) a dangerous wild animal owned by and in the possession, custody, or control of a college or university solely as a mascot for the college or university;

(9) a dangerous wild animal while being transported in interstate commerce through the state in compliance with the Animal Welfare Act (7 U.S.C. Section 2131 et seq.) and its subsequent amendments and the regulations adopted under that Act;

(10) a nonhuman primate owned by and in the control and custody of a person whose only business is supplying nonhuman primates directly and exclusively to biomedical research facilities and who holds a Class "A" or Class "B" dealer's license issued by the secretary of agriculture of the United States under the Animal Welfare Act (7 U.S.C. Section 1 2131 et seq.) and its subsequent amendments;

(11) a dangerous wild animal that is:

(A) owned by or in the possession, control, or custody of a person who is a participant in a species survival plan of the American Zoo and Aquarium Association for that species; and

(B) an integral part of that species survival plan; ~~and~~

(12) in a county west of the Pecos River that has a population of less than 25,000, a cougar, bobcat, or coyote in the possession, custody, or control of a person that has trapped the cougar, bobcat, or coyote as part of a predator or depredation control activity;

(13) an organization that is an accredited member of:

(A) the Zoological Association of America;

(B) the American Sanctuary Association; or

(C) the Global Federation of Animal Sanctuaries; or

(D) the Feline Conservation Federation; and

(14) a Class "C" exhibitor such as a theme park, holding a valid Animal Welfare Act Class "C" license issued by the Animal and Plant Health Inspection Service (9 C.F.R §1.1), also known as Exhibitor, and any entities or individuals, including independent contractors, working under contract with and for the Exhibitor to exhibit animals;

(15) a dangerous wild animal that is owned by or in the possession, custody, or control of a nonprofit organization that is dedicated to rescuing animals and educating the public, if the organization:

(A) is subject to inspection by the Animal and Plant Health Inspection Service of the United States Department of Agriculture as a Class A or Class C licensee under federal regulations;

(B) is a holder of a display permit issued by this state or a county authority;

(C) does not purchase a dangerous wild animal; and

(D) does not obtain a dangerous wild animal from a commercial breeder or a person engaged in the traffic or sale of a dangerous wild animal unless the animal is surrendered to the organization by a person who possesses the animal, including a law enforcement agency or applicable regulatory authority that confiscates the animal.

SECTION 3. The heading to Section 822.103, Health and Safety Code, is amended to read as follows:

Sec. 822.103. CERTIFICATE OF REGISTRATION; RESTRICTIONS; FEES.

SECTION 4. Section 822.103(c), Health and Safety Code, is amended to read as follows:

(c) The animal registration agency may establish and charge reasonable fees for application, issuance, and renewal of a certificate of registration in order to recover the costs associated with the administration and enforcement of this subchapter. The fee charged to an applicant may not exceed \$50 for each dangerous wild animal registered and may not exceed \$500 for each person registering animals, regardless of the number of animals owned by the person, unless the animal is a predatory animal. The fee charged to an applicant may not exceed \$500 for each dangerous wild animal registered that is a predatory animal. The fees collected under this section may be used only to administer and enforce this subchapter.

SECTION 5. Section 822.104(b), Health and Safety Code, is amended to read as follows:

(b) The application must include:

(1) the name, address, and telephone number of the applicant;
 (2) a complete identification of each animal, including species, sex, age, if known, and any distinguishing marks or coloration that would aid in the identification of the animal;

(3) the exact location where each animal is to be kept;

(4) a sworn statement that:

(A) all information in the application is complete and accurate; and

(B) the applicant has read this subchapter and that all facilities used by the applicant to confine or enclose the animal comply with the requirements of this subchapter; ~~and~~

(5) the name of the person who owned the animal immediately before the applicant if the animal is a predatory animal;

(6) the address where the applicant obtained the animal if the animal is a predatory animal; and

(7) any other information the animal registration agency may require.

SECTION 6. Section 822.105, Health and Safety Code, is amended by adding Subsection (e) to read as follows:

(e) A person who is denied a certificate of registration for a dangerous wild animal that is a predatory animal may not reapply for a certificate of registration for a predatory animal before the first anniversary of the date:

(1) the denial of an application for a certificate of registration becomes final;

or

(2) the revocation of a certificate of registration becomes final.

SECTION 7. Section 822.107, Health and Safety Code, is amended to read as follows:

Sec. 822.107. LIABILITY INSURANCE. (a) Except as provided by Subsection (b), an ~~AA~~ owner of a dangerous wild animal shall maintain liability insurance coverage in an amount of not less than \$100,000 for each occurrence for liability for damages for destruction of or damage to property and death or bodily injury to a person caused by the dangerous wild animal.

(b) An owner of a dangerous wild animal that is a predatory animal shall maintain liability insurance coverage in an amount sufficient to cover liability for damages for destruction of or damage to property and death or bodily injury to a person caused by the predatory animal.

(c) The executive commissioner of the Health and Human Services Commission by rule shall establish insurance requirements and standards to ensure that an owner of a dangerous wild animal that is a predatory animal maintains liability insurance coverage in an amount that protects and enhances the public's health and safety.

(d) An owner of a dangerous wild animal that is a predatory animal shall comply with the insurance requirements and standards established under Subsection (c).

SECTION 8. Section 822.113(c), Health and Safety Code, is amended to read as follows:

(c) An offense under this section is:

(1) a Class C misdemeanor; or

(2) a Class B misdemeanor if the dangerous wild animal with respect to which there is a violation is a predatory animal.

SECTION 9. Section 822.115, Health and Safety Code, is amended to read as follows:

Sec. 822.115. INJUNCTION. (a) Any person who is directly harmed or threatened with harm by a violation of this subchapter or a failure to enforce this subchapter may sue an owner of a dangerous wild animal to enjoin a violation of this subchapter or to enforce this subchapter.

(b) Any person who lives or owns property in the county where a dangerous wild animal that is a predatory animal is kept may sue the owner of the animal to enjoin a violation of this subchapter or to enforce this subchapter.

SECTION 10. (a) The changes in law made by this Act to Sections 822.103, 822.104, and 822.105, Health and Safety Code, apply to an application for an original or renewal certificate of registration for a dangerous wild animal that is a predatory animal filed on or after the effective date of this Act. An application for a certificate of registration for a dangerous wild animal that is a predatory animal filed before the effective date of this Act is governed by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose.

(b) The change in law made by this Act to Section 822.113(c), Health and Safety Code, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date 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 1 of the offense occurred before that date.

SECTION 11. This Act takes effect September 1, 2011.

Floor Amendment No. 4

Amend **CSSB 958** (house committee printing) in SECTION 2 of the bill, in amended Section 822.102(a), Health and Safety Code (page 4, lines 8-9), by striking Subdivision (13) and substituting the following:

(13) an organization that is an accredited member of:

(A) the Zoological Association of America; or

(B) the Feline Conservation Federation; and

Floor Amendment No. 5

Amend **CSSB 958** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 822.007, Health and Safety Code, is amended to read as follows:

Sec. 822.007. LOCAL REGULATION OF DOGS. (a) Except as provided by Subsection (c), this [This] subchapter does not prohibit a municipality or county from adopting leash or registration requirements applicable to dogs.

(b) A volunteer search and rescue service dog that is a part of a volunteer search and rescue team is not considered a dangerous wild animal for purposes of this chapter.

(c) In this section, "volunteer search and rescue team" means an individual or an organized group of volunteers issued a written document by a law enforcement department that recognizes the individual or group as a person or group that trains dogs to assist in the location of a lost or missing person or for law enforcement purposes. A municipality may not adopt or enforce an ordinance, including a leash law, that restricts the ability of a volunteer search and rescue team to train a service dog for search and rescue or law enforcement purposes.

The amendments were read.

Senator Wentworth 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 President asked if there were any motions to instruct the conference committee on **SB 958** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate: Senators Wentworth, Chair; Watson, Eltife, Hegar, and Uresti.

CONFERENCE COMMITTEE ON HOUSE BILL 2499

Senator Nichols called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 2499** and moved that the request be granted.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **HB 2499** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate: Senators Nichols, Chair; Hegar, Huffman, Whitmire, and Hinojosa.

SENATE BILL 156 WITH HOUSE AMENDMENTS

Senator Huffman called **SB 156** from the President's table for consideration of the House amendments to the bill.

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

Floor Amendment No. 2

Amend **SB 156** (house committee printing) as follows:

(1) Strike page 1, lines 23 and 24 and substitute the following:

SECTION 3. Section 108.009, Health and Safety Code, is amended by amending Subsections (a), (c), and (h) and adding Subsections (a-1) and (d-1) to read as follows:

(a) The council may collect, and, except as provided by Subsections (c), ~~(d)~~ (d), and (d-1), providers shall submit to the council or another entity as determined by the council, all data required by this section. The data shall be collected according to uniform submission formats, coding systems, and other technical specifications necessary to make the incoming data substantially valid, consistent, compatible, and manageable using electronic data processing, if available.

(a-1) An ambulatory surgical center licensed under Chapter 243 is not required to submit data under this section.

(c) A rural provider or a hospital may, but is not required to, provide the data required by this chapter ~~[- A hospital may, but is not required to, provide the data required by this chapter if the hospital:~~

~~[(1) is exempt from state franchise, sales, ad valorem, or other state or local taxes; and~~

~~[(2) does not seek or receive reimbursement for providing health care services to patients from any source, including:~~

~~[(A) the patient or any person legally obligated to support the patient;~~

~~[(B) a third party payor; or~~

~~[(C) Medicaid, Medicare, or any other federal, state, or local program for indigent health care].~~

(d-1) A provider may elect not to participate in the data collection program under Subsection (a). The executive commissioner of the Health and Human Services Commission by rule shall establish procedures for making the election authorized by this subsection.

(2) Adding the following appropriately numbered SECTIONS to the bill and renumber subsequent SECTIONS of the bill accordingly:

SECTION _____. Chapter 108, Health and Safety Code, is amended by adding Section 108.0131 to read as follows:

Sec. 108.0131. NOTICE REQUIRED. (a) A provider who submits data under Section 108.009 shall provide notice to the provider's patients that:

(1) the provider submits data as required by this chapter; and

(2) the data may be sold or distributed to third parties.

(b) The department shall post on the department's Internet website a list of each entity that purchases or receives data collected under this chapter.

SECTION _____. Not later than December 31, 2011, the executive commissioner of the Health and Human Services Commission shall adopt rules as required by Section 108.009(d-1), Health and Safety Code, as added by this Act, establishing procedures to allow health care providers to make the election authorized by that subsection.

Floor Amendment No. 1 on Third Reading

Amend **SB 156** on third reading as follows:

(1) Strike the recital to the section of the bill amending Section 108.009, Health and Safety Code, as amended by Amendment No. 2 by King on second reading and substitute the following:

SECTION _____. Section 108.009, Health and Safety Code, is amended by adding Subsection (a-1) and amending Subsection (h) to read as follows:

(2) Strike amended Sections 108.009(a) and (c), Health and Safety Code, and added Section 108.009(d-1), Health and Safety Code, as added by Amendment No. 2 by King on second reading.

(3) Strike the SECTION of the bill adding transition language for added Section 108.009(d-1), Health and Safety Code, as added by Amendment No. 2 by King on second reading.

Floor Amendment No. 2 on Third Reading

Amend **SB 156** on third reading by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subtitle E, Title 2, Health and Safety Code, is amended by adding Chapter 103A to read as follows:

CHAPTER 103A. TEXAS BLEEDING DISORDERS ADVISORY COUNCIL

Sec. 103A.001. DEFINITIONS. In this chapter:

(1) "Commissioner" means the commissioner of state health services.

(2) "Council" means the Texas Bleeding Disorders Advisory Council.

(3) "Department" means the Department of State Health Services.

(4) "Hemophilia" has the meaning assigned by Section 41.001.

Sec. 103A.002. COMPOSITION OF COUNCIL. (a) The council is composed of:

(1) the commissioner and the commissioner of insurance, or their designees, serving as nonvoting members; and

(2) 10 voting members jointly appointed by the commissioner and the commissioner of insurance as follows:

(A) one member who is a physician licensed to practice medicine in this state under Subtitle B, Title 3, Occupations Code, who at the time of appointment treats individuals with hemophilia or other bleeding or clotting disorders;

(B) one member who is a nurse licensed under Chapter 301, Occupations Code, who at the time of appointment treats individuals with hemophilia or other bleeding or clotting disorders;

(C) one member who is a social worker licensed under Chapter 505, Occupations Code, who at the time of appointment treats individuals with hemophilia or other bleeding or clotting disorders;

(D) one member who is a representative of a hemophilia treatment center in this state that is federally funded;

(E) one member who is a representative of a health insurer or other health benefit plan issuer that holds a certificate of authority issued by the Texas Department of Insurance;

(F) one member who is a representative of a volunteer or nonprofit health organization that serves residents of this state who have hemophilia or another bleeding or clotting disorder;

(G) one member who has hemophilia or is a caregiver of a person with hemophilia;

(H) one member who has a bleeding disorder other than hemophilia or is a caregiver of a person with a bleeding disorder other than hemophilia;

(I) one member who has a clotting disorder or is a caregiver of a person with a clotting disorder; and

(J) one member who is a pharmacist licensed under Subtitle J, Title 3, Occupations Code, with hemophilia therapy experience, who at the time of appointment represents a pharmacy provider that is not a specialty pharmacy provider participating in the Drug Pricing Program under Section 340B, Public Health Service Act (42 U.S.C. Section 256b).

(b) In addition to council members appointed under Subsection (a), the commissioner and the commissioner of insurance may jointly appoint up to five nonvoting members, including:

(1) persons with hemophilia or other bleeding or clotting disorders or caregivers of persons with hemophilia or other bleeding or clotting disorders; and

(2) persons experienced in the diagnosis, treatment, care, and support of persons with hemophilia or other bleeding or clotting disorders.

Sec. 103A.003. VACANCY. If a vacancy occurs on the council, the commissioner and the commissioner of insurance shall jointly appoint a person to serve for the remainder of the unexpired term.

Sec. 103A.004. PRESIDING OFFICER. Council members shall elect from among the voting council members a presiding officer. The presiding officer retains all voting rights.

Sec. 103A.005. COMPENSATION AND REIMBURSEMENT. A council member may not:

- (1) receive compensation for service on the council; and
- (2) be reimbursed for actual and necessary expenses incurred while performing council business except to the extent that money available under Section 103A.009 is designated for that purpose.

Sec. 103A.006. MEETINGS. The council shall meet at least quarterly and at the call of the commissioner or presiding officer.

Sec. 103A.007. DUTIES OF COUNCIL. The council using existing resources shall conduct studies and advise the department, the Health and Human Services Commission, and the Texas Department of Insurance on:

- (1) public use data, outcome data, and other information submitted to or collected by the department under Chapter 108 or other law related to hemophilia or other bleeding or clotting disorders and the department's disclosure and dissemination of that information within and outside the department; and
- (2) other issues that affect the health and wellness of persons living with hemophilia or other bleeding or clotting disorders.

Sec. 103A.008. ANNUAL REPORTS BY COUNCIL AND COMMISSIONER. (a) Not later than December 1 of each even-numbered year, the council using existing resources shall submit a report of its findings and recommendations to the governor, the lieutenant governor, and the speaker of the house of representatives. The council's report must be made public and is subject to public review and comment before adoption by the council.

(b) Not later than six months after the date the council's annual report is issued, the commissioner shall report on efforts to implement the recommendations in the report. The commissioner's annual report must:

- (1) be made available to the public; and
- (2) include any related state or national activities in which the council participates.

Sec. 103A.009. GIFTS, GRANTS, AND DONATIONS. The commissioner may accept for the council gifts, grants, and donations to fulfill the council's purposes and duties under this chapter. The department is not required to perform any fund-raising activities or to solicit donations for the council.

Sec. 103A.010. CERTAIN FUNDING PROHIBITED. The council may not accept any funds that are appropriated by the legislature for the state fiscal biennium beginning September 1, 2011. This section expires September 1, 2013.

Sec. 103A.011. ADMINISTRATIVE SUPPORT. The department using existing resources shall provide reasonably necessary administrative support for council activities.

Sec. 103A.012. EXPIRATION. This chapter expires and the council is abolished September 1, 2015.

SECTION _____. As soon as practicable after the effective date of this Act and not later than December 1, 2011, the commissioner of state health services and the commissioner of insurance shall jointly appoint members to the Texas Bleeding Disorders Advisory Council as required by Section 103A.002, Health and Safety Code, as added by this Act.

The amendments were read.

Senator Huffman 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 President asked if there were any motions to instruct the conference committee on **SB 156** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate: Senators Huffman, Chair; Duncan, Deuell, Uresti, and Nelson.

SENATE BILL 1320 WITH HOUSE AMENDMENT

Senator Lucio called **SB 1320** from the President's table for consideration of the House amendment to the bill.

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

Floor Amendment No. 1

Amend **SB 1320** (house committee printing), on page 2, line 10, by striking "fourth" and substituting "second".

The amendment was read.

Senator Lucio moved that the Senate do not concur in the House amendment, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **SB 1320** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate: Senators Lucio, Chair; Carona, Van de Putte, Eltife, and Estes.

SENATOR ANNOUNCED PRESENT

Senator Ogden, who had previously been recorded as "Absent-excused," was announced "Present."

SENATE BILL 1489 WITH HOUSE AMENDMENTS

Senator Whitmire called **SB 1489** from the President's table for consideration of the House amendments to the bill.

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

Amendment

Amend **SB 1489** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to educational, juvenile justice, and criminal justice responses to truancy.

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

SECTION 1. Section 25.085(f), Education Code, is amended to read as follows:

(f) The board of trustees of a school district may adopt a policy requiring a person described by Subsection (e) who is under 21 years of age to attend school until the end of the school year. Section 25.094 ~~does not apply~~ [applies] to a person subject to a policy adopted under this subsection. Sections 25.093 and 25.095 do not apply to the parent of a person subject to a policy adopted under this subsection.

SECTION 2. Section 25.094(a), Education Code, is amended to read as follows:

(a) An individual commits an offense if the individual:

(1) is 12 years of age or older and younger than 18 years of age;

(2) is required to attend school under Section 25.085; and

(3) ~~[(2)]~~ fails to attend school on 10 or more days or parts of days within a six-month period in the same school year or on three or more days or parts of days within a four-week period.

SECTION 3. Section 51.03, Family Code, is amended by adding Subsection (e-1) to read as follows:

(e-1) Notwithstanding any other law, for purposes of conduct described by Subsection (b)(2), "child" means a person who is:

(1) 10 years of age or older;

(2) alleged or found to have engaged in the conduct as a result of acts committed before becoming 18 years of age; and

(3) required to attend school under Section 25.085, Education Code.

SECTION 4. Sections 54.021(a) and (b), Family Code, are amended to read as follows:

(a) The juvenile court may waive its exclusive original jurisdiction and transfer a child to the constitutional county court, if the county has a population of two million or more, or to an appropriate justice or municipal court, with the permission of the county, justice, or municipal court, for disposition in the manner provided by Subsection (b) if the child is 12 years of age or older and is alleged to have engaged in conduct described in Section 51.03(b)(2). A waiver of jurisdiction under this subsection may be for an individual case or for all cases in which a child is alleged to have engaged in conduct described in Section 51.03(b)(2). The waiver of a juvenile court's exclusive original jurisdiction for all cases in which a child is alleged to have engaged in conduct described in Section 51.03(b)(2) is effective for a period of one year.

(b) A county, justice, or municipal court may exercise jurisdiction over a person alleged to have engaged in conduct indicating a need for supervision by engaging in conduct described in Section 51.03(b)(2) in a case where:

(1) the person is 12 years of age or older;

(2) the juvenile court has waived its original jurisdiction under this section; and

(3) ~~(2)~~ a complaint is filed by the appropriate authority in the county, justice, or municipal court charging an offense under Section 25.094, Education Code.

SECTION 5. Chapter 54, Family Code, is amended by adding Section 54.0402 to read as follows:

Sec. 54.0402. DISPOSITIONAL ORDER FOR FAILURE TO ATTEND SCHOOL. A dispositional order regarding conduct under Section 51.03(b)(2) is effective for the period specified by the court in the order but may not extend beyond the 180th day after the date of the order or beyond the end of the school year in which the order was entered, whichever period is longer.

SECTION 6. Section 54.05, Family Code, is amended by amending Subsections (a) and (b) and adding Subsection (a-1) to read as follows:

(a) Except as provided by Subsection (a-1), any [Any] disposition, except a commitment to the Texas Youth Commission, may be modified by the juvenile court as provided in this section until:

(1) the child reaches his 18th birthday; or

(2) the child is earlier discharged by the court or operation of law.

(a-1) A disposition regarding conduct under Section 51.03(b)(2) may be modified by the juvenile court as provided by this section until the expiration of the period described by Section 54.0402.

(b) Except for a commitment to the Texas Youth Commission or a disposition under Section 54.0402, all dispositions automatically terminate when the child reaches his 18th birthday.

SECTION 7. Article 45.054, Code of Criminal Procedure, is amended by adding Subsections (i) and (j) to read as follows:

(i) A county, justice, or municipal court shall dismiss the complaint against an individual alleging that the individual committed an offense under Section 25.094, Education Code, if:

(1) the court finds that the individual has successfully complied with the conditions imposed on the individual by the court under this article; or

(2) the individual presents to the court proof that the individual has obtained a high school diploma or a high school equivalency certificate.

(j) A county, justice, or municipal court may waive or reduce a fee or court cost imposed under this article if the court finds that payment of the fee or court cost would cause financial hardship.

SECTION 8. Article 45.055, Code of Criminal Procedure, is amended by amending Subsection (a) and adding Subsection (e) to read as follows:

(a) Except as provided by Subsection (e), an [An] individual convicted of not more than one violation of Section 25.094, Education Code, may, on or after the individual's 18th birthday, apply to the court in which the individual was convicted to have the conviction and records relating to the conviction expunged.

(e) A court shall expunge an individual's conviction under Section 25.094, Education Code, and records relating to a conviction, regardless of whether the individual has previously been convicted of an offense under that section, if:

(1) the court finds that the individual has successfully complied with the conditions imposed on the individual by the court under Article 45.054; or

(2) before the individual's 21st birthday, the individual presents to the court proof that the individual has obtained a high school diploma or a high school equivalency certificate.

SECTION 9. Articles 102.0174(b) and (c), Code of Criminal Procedure, are amended to read as follows:

(b) The governing body of a municipality by ordinance may create a juvenile case manager fund and may require a defendant convicted of a fine-only misdemeanor offense in a municipal court to pay a juvenile case manager fee not to exceed \$5 as a cost of court if the municipal court employs a juvenile case manager. A municipal court that does not employ a juvenile case manager may not collect a fee under this subsection.

(c) The commissioners court of a county by order may create a juvenile case manager fund and may require a defendant convicted of a fine-only misdemeanor offense in a justice court, county court, or county court at law to pay a juvenile case manager fee not to exceed \$5 as a cost of court if the court employs a juvenile case manager. A justice court, county court, or county court at law that does not employ a juvenile case manager may not collect a fee under this subsection.

SECTION 10. Sections 25.091(a) and (b), Education Code, are amended to read as follows:

(a) A peace officer serving as an attendance officer has the following powers and duties concerning enforcement of compulsory school attendance requirements:

(1) to investigate each case of a violation of compulsory school attendance requirements referred to the peace officer;

(2) to enforce compulsory school attendance requirements by:

(A) applying truancy prevention measures adopted under Section 25.0915 to the student; and

(B) if the truancy prevention measures fail to meaningfully address the student's conduct:

(i) referring the [a] student to a juvenile court or filing a complaint against the [a] student in a county, justice, or municipal court if the student has unexcused absences for the amount of time specified under Section 25.094 or under Section 51.03(b)(2), Family Code; or [and]

(ii) [(B)] filing a complaint in a county, justice, or municipal court against a parent who violates Section 25.093;

(3) to serve court-ordered legal process;

(4) to review school attendance records for compliance by each student investigated by the officer;

(5) to maintain an investigative record on each compulsory school attendance requirement violation and related court action and, at the request of a court, the board of trustees of a school district, or the commissioner, to provide a record to the individual or entity requesting the record;

(6) to make a home visit or otherwise contact the parent of a student who is in violation of compulsory school attendance requirements, except that a peace officer may not enter a residence without the permission of the parent of a student required under this subchapter to attend school or of the tenant or owner of the residence except to lawfully serve court-ordered legal process on the parent; and

(7) to take a student into custody with the permission of the student's parent or in obedience to a court-ordered legal process.

(b) An attendance officer employed by a school district who is not commissioned as a peace officer has the following powers and duties with respect to enforcement of compulsory school attendance requirements:

(1) to investigate each case of a violation of the compulsory school attendance requirements referred to the attendance officer;

(2) to enforce compulsory school attendance requirements by:

(A) applying truancy prevention measures adopted under Section 25.0915 to the student; and

(B) if the truancy prevention measures fail to meaningfully address the student's conduct:

(i) referring the [a] student to a juvenile court or filing a complaint against the [a] student in a county, justice, or municipal court if the student has unexcused absences for the amount of time specified under Section 25.094 or under Section 51.03(b)(2), Family Code; and

(ii) [~~B~~] filing a complaint in a county, justice, or municipal court against a parent who violates Section 25.093;

(3) to monitor school attendance compliance by each student investigated by the officer;

(4) to maintain an investigative record on each compulsory school attendance requirement violation and related court action and, at the request of a court, the board of trustees of a school district, or the commissioner, to provide a record to the individual or entity requesting the record;

(5) to make a home visit or otherwise contact the parent of a student who is in violation of compulsory school attendance requirements, except that the attendance officer may not enter a residence without permission of the parent or of the owner or tenant of the residence;

(6) at the request of a parent, to escort a student from any location to a school campus to ensure the student's compliance with compulsory school attendance requirements; and

(7) if the attendance officer has or is informed of a court-ordered legal process directing that a student be taken into custody and the school district employing the officer does not employ its own police department, to contact the sheriff, constable, or any peace officer to request that the student be taken into custody and processed according to the legal process.

SECTION 11. Subchapter C, Chapter 25, Education Code, is amended by adding Section 25.0915 to read as follows:

Sec. 25.0915. TRUANCY PREVENTION MEASURES; REFERRAL AND FILING REQUIREMENT. (a) A school district shall adopt truancy prevention measures designed to:

(1) address student conduct related to truancy in the school setting;
(2) minimize the need for referrals to juvenile court for conduct described by Section 51.03(b)(2), Family Code; and

(3) minimize the filing of complaints in county, justice, and municipal courts alleging a violation of Section 25.094.

(b) Each referral to juvenile court for conduct described by Section 51.03(b)(2), Family Code, or complaint filed in county, justice, or municipal court alleging a violation by a student of Section 25.094 must:

(1) be accompanied by a statement from the student's school certifying that:
(A) the school applied the truancy prevention measures adopted under Subsection (a) to the student; and

(B) the truancy prevention measures failed to meaningfully address the student's school attendance; and

(2) specify whether the student is eligible for or receives special education services under Subchapter A, Chapter 29.

SECTION 12. Section 102.061, Government Code, as amended by Chapters 87 (S.B. 1969), 1172 (H.B. 3389), and 1183 (H.B. 3637), Acts of the 81st Legislature, Regular Session, 2009, is reenacted and amended to read as follows:

Sec. 102.061. ADDITIONAL COURT COSTS ON CONVICTION IN STATUTORY COUNTY COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a statutory county court shall collect fees and costs under the Code of Criminal Procedure on conviction of a defendant as follows:

- (1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . \$20;
- (2) a fee for services of the clerk of the court (Art. 102.005, Code of Criminal Procedure) . . . \$40;
- (3) a records management and preservation services fee (Art. 102.005, Code of Criminal Procedure) . . . \$25;
- (4) a county and district court technology fee (Art. 102.0169, Code of Criminal Procedure) . . . \$4;
- (5) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . \$3;
- (6) a juvenile delinquency prevention and graffiti eradication fee (Art. 102.0171, Code of Criminal Procedure) . . . \$50; ~~and~~
- (7) a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . not to exceed \$5 if the court employs a juvenile case manager; and
- (8) ~~(7)~~ a civil justice fee (Art. 102.022, Code of Criminal Procedure) . . . \$0.10.

SECTION 13. Section 102.081, Government Code, as amended by Chapters 87 (S.B. 1969), 1172 (H.B. 3389), and 1183 (H.B. 3637), Acts of the 81st Legislature, Regular Session, 2009, is reenacted and amended to read as follows:

Sec. 102.081. ADDITIONAL COURT COSTS ON CONVICTION IN COUNTY COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a county court shall collect fees and costs under the Code of Criminal Procedure on conviction of a defendant as follows:

- (1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . \$20;

- (2) a fee for clerk of the court services (Art. 102.005, Code of Criminal Procedure) . . . \$40;
- (3) a records management and preservation services fee (Art. 102.005, Code of Criminal Procedure) . . . \$25;
- (4) a county and district court technology fee (Art. 102.0169, Code of Criminal Procedure) . . . \$4;
- (5) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . \$3;
- (6) a juvenile delinquency prevention and graffiti eradication fee (Art. 102.0171, Code of Criminal Procedure) . . . \$50; ~~and~~
- (7) a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . not to exceed \$5 if the court employs a juvenile case manager; and
- (8) ~~(7)~~ a civil justice fee (Art. 102.022, Code of Criminal Procedure) . . . \$0.10.

SECTION 14. Section 102.101, Government Code, is amended to read as follows:

Sec. 102.101. ADDITIONAL COURT COSTS ON CONVICTION IN JUSTICE COURT: CODE OF CRIMINAL PROCEDURE. A clerk of a justice court shall collect fees and costs under the Code of Criminal Procedure on conviction of a defendant as follows:

- (1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . \$3;
- (2) a fee for withdrawing request for jury less than 24 hours before time of trial (Art. 102.004, Code of Criminal Procedure) . . . \$3;
- (3) a jury fee for two or more defendants tried jointly (Art. 102.004, Code of Criminal Procedure) . . . one jury fee of \$3;
- (4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . \$4;
- (5) a fee for technology fund on a misdemeanor offense (Art. 102.0173, Code of Criminal Procedure) . . . \$4;
- (6) a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . not to exceed \$5 if the court employs a juvenile case manager;
- (7) a fee on conviction of certain offenses involving issuing or passing a subsequently dishonored check (Art. 102.0071, Code of Criminal Procedure) . . . not to exceed \$30;
- (8) a court cost on conviction of a Class C misdemeanor in a county with a population of 3.3 million or more, if authorized by the county commissioners court (Art. 102.009, Code of Criminal Procedure) . . . not to exceed \$7; and
- (9) a civil justice fee (Art. 102.022, Code of Criminal Procedure) . . . \$0.10.

SECTION 15. Section 102.121, Government Code, is amended to read as follows:

Sec. 102.121. ADDITIONAL COURT COSTS ON CONVICTION IN MUNICIPAL COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a municipal court shall collect fees and costs on conviction of a defendant as follows:

- (1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . \$3;
- (2) a fee for withdrawing request for jury less than 24 hours before time of trial (Art. 102.004, Code of Criminal Procedure) . . . \$3;

(3) a jury fee for two or more defendants tried jointly (Art. 102.004, Code of Criminal Procedure) . . . one jury fee of \$3;

(4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . \$3;

(5) a fee for technology fund on a misdemeanor offense (Art. 102.0172, Code of Criminal Procedure) . . . not to exceed \$4;

(6) a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . not to exceed \$5 if the court employs a juvenile case manager; and

(7) a civil justice fee (Art. 102.022, Code of Criminal Procedure) . . . \$0.10.

SECTION 16. Subsection (e), Article 45.056, Code of Criminal Procedure, is repealed.

SECTION 17. The change in law made by this Act applies only to conduct that occurs on or after the effective date of this Act. Conduct that occurs before the effective date of this Act is governed by the law in effect at the time the conduct occurred, and the former law is continued in effect for that purpose. For purposes of this section, conduct occurs before the effective date of this Act if any element of the violation occurs before that date.

SECTION 18. To the extent of any conflict, this Act prevails over another Act of the 82nd Legislature, Regular Session, 2011, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 19. This Act takes effect September 1, 2011.

Floor Amendment No. 1

Amend **CSSB 1489** (house committee printing) as follows:

(1) Strike SECTION 1 of the bill (page 1, lines 5 through 13).

(2) In SECTION 2 of the bill, in amended Section 25.094(a)(1), Education Code (page 1, lines 17 through 18), strike "and younger than 18 years of age".

(3) In SECTION 3 of the bill, in added Section 51.03(e-1)(2), Family Code (page 2, line 7), strike "18" and substitute "21".

(4) In SECTION 9 of the bill, in amended Article 102.0174(b), Code of Criminal Procedure (page 5, line 19), strike "the municipal court employs" and substitute "the municipality employs".

(5) In SECTION 9 of the bill, in amended Article 102.0174(b), Code of Criminal Procedure (page 5, line 20), strike "municipal court that does not employ" and substitute "municipality that does not employ".

(6) In SECTION 11 of the bill, in added Section 25.0915(b)(1), Education Code (page 9, line 21), between "school" and "certifying", insert "district".

(7) In SECTION 11 of the bill, in added Section 25.0915(b)(1)(A), Education Code (page 9, line 22), between "school" and "applied", insert "district".

(8) In SECTION 15 of the bill, in amended Section 102.121(6), Government Code (page 13, line 19), strike "the court" and substitute "the municipality".

(9) Renumber SECTIONS of the bill accordingly.

Floor Amendment No. 2

Amend **CSSB 1489** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 58.106, Family Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) Except as otherwise provided by this section, information contained in the juvenile justice information system is confidential information for the use of the department and may not be disseminated by the department except:

(1) with the permission of the juvenile offender, to military personnel of this state or the United States;

(2) to a person or entity to which the department may grant access to adult criminal history records as provided by Section 411.083, Government Code;

(3) to a juvenile justice agency;

(4) to the Texas Youth Commission and the Texas Juvenile Probation Commission for analytical purposes; ~~and~~

(5) to the office of independent ombudsman of the Texas Youth Commission; and

(6) to a county, justice, or municipal court exercising jurisdiction over a juvenile under Section 54.021.

(a-1) Information disseminated under Subsection (a) remains confidential after dissemination and may be disclosed by the recipient only as provided by this title.

The amendments were read.

Senator Whitmire 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 President asked if there were any motions to instruct the conference committee on **SB 1489** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate: Senators Whitmire, Chair; Hinojosa, Shapiro, Huffman, and Harris.

CONFERENCE COMMITTEE ON HOUSE BILL 1951

Senator Hegar called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 1951** and moved that the request be granted.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **HB 1951** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate: Senators Hegar, Chair; Huffman, Williams, Nelson, and Uresti.

CONFERENCE COMMITTEE ON HOUSE BILL 3577

Senator Zaffirini called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 3577** and moved that the request be granted.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **HB 3577** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate: Senators Zaffirini, Chair; Carona, Duncan, Eltife, and Watson.

SENATE BILL 1816 WITH HOUSE AMENDMENTS

Senator Zaffirini called **SB 1816** from the President's table for consideration of the House amendments to the bill.

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

Committee Amendment No. 1

Amend **SB 1816** (engrossed version) as follows:

(1) Strike SECTION 5 of the bill, adding Section 233.902, Local Government Code, and renumber subsequent SECTIONS of the bill accordingly.

(2) In SECTION 6 of the bill, strike added Section 16.343(f), Water Code (page 3, line 21, through page 4, line 1) and substitute the following:

(f) To augment regulatory compliance by political subdivisions, the model rules may impose requirements for platting, replatting, or any other method authorized by law. Notwithstanding any other law to the contrary and except as may be required by an agreement developed under Chapter 242, Local Government Code, a municipality that has adopted the model rules under this section may impose the platting requirements of Chapter 212, Local Government Code, and a county that has adopted the model rules under this section may impose the applicable platting requirements of Chapter 232, Local Government Code, to a division of real property that is required to be platted or replatted by the provisions of the model rules.

Floor Amendment No. 1 on Third Reading

Amend **SB 1816** on third reading as follows:

(1) In SECTION 2 of the bill, in the recital, strike "Subsections (a) and (d), Section 232.022, Local Government Code, are" and substitute "Subsection (d), Section 232.022, Local Government Code, is".

(2) In SECTION 2 of the bill, strike amended Section 232.022(a), Local Government Code.

(3) Add the following appropriately numbered SECTIONS to the bill:

SECTION ____ . Section 232.0031, Local Government Code, is amended to read as follows:

Sec. 232.0031. STANDARD FOR ROADS IN SUBDIVISION. A county may not impose under Section 232.003 a higher standard for streets or roads in a subdivision than the county imposes on itself for the construction of new streets or roads with a similar type and amount of traffic.

SECTION _____. Section 232.033, Local Government Code, is amended by amending Subsections (a) and (h) and adding Subsections (a-1), (a-2), (a-3), (a-4), and (a-5) to read as follows:

(a) Brochures, publications, ~~and~~ advertising of any form, and earnest money contracts relating to ~~subdivided~~ land required to be platted under this subchapter:

(1) may not contain any misrepresentation; ~~and~~

(2) except for a for-sale sign posted on the property that is no larger than three feet by three feet, must accurately describe the availability of water and sewer service facilities and electric and gas utilities; and

(3) if a plat for the land has not been finally approved and recorded, must include a notice that:

(A) subject to Subsection (a-1), a contract for the sale of any portion of the land may not be entered into until the land receives final plat approval under Section 232.024; and

(B) the land may not be possessed or occupied until:

(i) the land receives final plat approval under Section 232.024; and

(ii) all water and sewer service facilities for the lot are connected or installed in compliance with the model rules adopted under Section 16.343, Water Code.

(a-1) This subsection applies in addition to other applicable law and prevails to the extent of a conflict with that other law. This subsection applies only to a person who is a seller or subdivider and who is a licensed, registered, or otherwise credentialed residential mortgage loan originator under applicable state law, federal law, and the Nationwide Mortgage Licensing System and Registry. A person may, before a plat has been finally approved and recorded for the land:

(1) enter into an earnest money contract with a potential purchaser and accept payment under the contract in an amount of \$250 or less; and

(2) advertise in accordance with this section.

(a-2) An earnest money contract entered into under Subsection (a-1) is void if the plat for the land has not been finally approved and recorded before the 91st day after the date the earnest money contract is signed by the potential purchaser, unless the potential purchaser agrees in writing to extend the period for plat approval and recording for an additional 90-day period. Only one extension may be granted under this subsection.

(a-3) If an earnest money contract is void under Subsection (a-2), the seller shall refund all earnest money paid to the potential purchaser not later than the 30th day after the date the earnest money contract becomes void under Subsection (a-2). If the seller fails to refund the earnest money to the potential purchaser in violation of this subsection, the potential purchaser, in a suit to recover the earnest money, may recover an amount equal to three times the amount of the earnest money required to be refunded, plus reasonable attorney's fees.

(a-4) Before entering into an earnest money contract with a potential purchaser and before a plat has been finally approved and recorded for the land as permitted under Subsection (a-1), a person must provide written notice to the attorney general and to the local government responsible for approving the plat. The notice must include:

(1) a statement of intent to enter into an earnest money contract under Subsection (a-1);

(2) a legal description of the land to be included in the subdivision;

(3) each county in which all or part of the subdivision is located; and

(4) the number of proposed individual lots to be included in the subdivision.

(a-5) The attorney general may adopt rules regarding the notice to be provided under Subsection (a-4).

(h) A person who is a seller of lots for which a plat is required under this subchapter [in a subdivision], or a subdivider or an agent of a seller or subdivider, commits an offense if the person knowingly authorizes or assists in the publication, advertising, distribution, or circulation of any statement or representation that the person knows is false concerning any [subdivided] land offered for sale or lease. An offense under this section is a Class A misdemeanor.

SECTION _____. Subchapter B, Chapter 232, Local Government Code, is amended by adding Section 232.0375 to read as follows:

Sec. 232.0375. NOTICE AND OPPORTUNITY TO CURE REQUIRED BEFORE FILING ENFORCEMENT ACTION. (a) Before a civil enforcement action may be filed against a subdivider under this subchapter, the subdivider must be notified in writing about the general nature of the alleged violation and given 90 days from the notification date to cure the violation. After the 90th day after the date of the notification, the enforcement action may proceed.

(b) This section does not apply to a civil enforcement action if the attorney general, district attorney, or county attorney asserts that:

(1) an alleged violation or threatened violation poses a threat to a consumer or to the health and safety of any person; or

(2) a delay in bringing an enforcement action may result in financial loss or increased costs to any person, including the county.

(c) This section does not apply if an enforcement action has previously been filed against the subdivider for the same or another alleged violation.

(d) This section does not apply to an action filed by a private individual.

SECTION _____. Subchapter B, Chapter 232, Local Government Code, is amended by adding Section 232.045 to read as follows:

Sec. 232.045. EARNEST MONEY CONTRACTS. (a) An earnest money contract entered into under Section 232.033(a-1) must contain the following statement:

"NOTICE: THIS IS AN EARNEST MONEY CONTRACT ONLY. THE MAXIMUM AMOUNT THAT THE SELLER MAY COLLECT UNDER THIS CONTRACT IS \$250. THE SELLER MAY NOT DEMAND ANY ADDITIONAL PAYMENT UNTIL A PLAT OF THE SUBDIVISION HAS BEEN APPROVED."

(b) An earnest money contract entered into under Section 232.033(a-1) must contain the notice required by Section 232.033.

SECTION _____. Subchapter C, Chapter 232, Local Government Code, is amended by adding Sections 232.0805 and 232.0806 to read as follows:

Sec. 232.0805. NOTICE AND OPPORTUNITY TO CURE REQUIRED BEFORE FILING ENFORCEMENT ACTION. (a) In this section, "subdivider" has the meaning assigned by Section 232.021.

(b) Before a civil enforcement action may be filed against a subdivider under this subchapter, the subdivider must be notified in writing about the general nature of the alleged violation and given 90 days from the notification date to cure the violation. After the 90th day after the date of the notification, the enforcement action may proceed.

(c) This section does not apply to a civil enforcement action if the attorney general, district attorney, or county attorney asserts that:

(1) an alleged violation or threatened violation poses a threat to a consumer or to the health and safety of any person; or

(2) a delay in bringing an enforcement action may result in financial loss or increased costs to any person, including the county.

(d) This section does not apply if an enforcement action has previously been filed against the subdivider for the same or another alleged violation.

(e) This section does not apply to an action filed by a private individual.

Sec. 232.0806. SUIT BY PRIVATE PERSON IN ECONOMICALLY DISTRESSED AREA. A person who has purchased or is purchasing a lot in a subdivision for residential purposes that does not have water and sewer services as required by this subchapter and is located in an economically distressed area, as defined by Section 17.921, Water Code, from a subdivider may bring suit in the district court in which the property is located or in a district court in Travis County to:

(1) declare the sale of the property void, require the subdivider to return the purchase price of the property, and recover from the subdivider:

(A) the market value of any permanent improvements the person placed on the property;

(B) actual expenses incurred as a direct result of the failure to provide adequate water and sewer facilities;

(C) court costs; and

(D) reasonable attorney's fees; or

(2) enjoin a violation or threatened violation of Section 232.072, require the subdivider to plat or amend an existing plat under Sections 232.011 and 232.081, and recover from the subdivider:

(A) actual expenses incurred as a direct result of the failure to provide adequate water and sewer facilities;

(B) court costs; and

(C) reasonable attorney's fees.

SECTION _____. Section 233.152, Local Government Code, is amended to read as follows:

Sec. 233.152. APPLICABILITY. (a) Except as provided by Subsection (b), this ~~[This]~~ subchapter applies only to new residential construction in a county that has adopted a resolution or order requiring the application of the provisions of this subchapter and that:

- (1) is located within 50 miles of an international border; or
- (2) has a population of more than 100.

(b) This subchapter does not apply to new residential construction if:

(1) the property on which the new residential construction is located is appraised for ad valorem tax purposes as land for agricultural use or open-space land under Subchapter C or D, Chapter 23, Tax Code;

(2) the new residential construction will not be located within 1,000 feet of a platted subdivision;

(3) the new residential construction is intended to be used as the primary residence of an individual who is the builder of, or acts as the general contractor for, the construction; and

(4) the new residential construction is:

(A) the first residential construction, as described by Section 233.151(a)(1), to be built on the property; or

(B) an addition to an existing single-family house or duplex, as described by Section 233.151(a)(2).

SECTION _____. Subchapter F, Chapter 233, Local Government Code, is amended by adding Section 233.1546 to read as follows:

Sec. 233.1546. CERTIFICATION OF COMPLIANCE; CONNECTION OF UTILITIES. (a) A county may require the issuance of a certificate of compliance as a precondition to obtaining utility services as provided by this section.

(b) The county shall, not later than the fifth business day after the date a request is received under this subsection, issue the requesting party a written certificate of compliance if:

(1) the county receives a written request from a person who builds new residential construction subject to this section, the person for whom the new residential construction is built, or an entity that provides utility service; and

(2) the requesting party demonstrates that the new residential construction has complied with all requirements applicable under this subchapter.

(c) An electric, gas, water, or sewer service utility may not permanently serve or connect new residential construction subject to this section with electricity, gas, water, sewer, or other utility service unless the utility receives a certificate issued by the county that states that compliance with all requirements applicable under this subchapter was demonstrated as provided by Subsection (b).

(d) Subsection (c) does not prevent the temporary use or connection of utilities necessary to complete new residential construction, including temporary use or connection of utilities to pass an inspection under this subchapter.

SECTION _____. Subchapter J, Chapter 16, Water Code, is amended by adding Section 16.3541 to read as follows:

Sec. 16.3541. NOTICE AND OPPORTUNITY TO CURE REQUIRED BEFORE FILING ENFORCEMENT ACTION. (a) In this section, "subdivider" has the meaning assigned by Section 232.021, Local Government Code.

(b) Before a civil enforcement action may be filed against a subdivider under this subchapter, the subdivider must be notified in writing about the general nature of the alleged violation and given 90 days from the notification date to cure the violation. After the 90th day after the date of the notification, the enforcement action may proceed.

(c) This section does not apply to a civil enforcement action if the attorney general, district attorney, or county attorney asserts that:

(1) an alleged violation or threatened violation poses a threat to a consumer or to the health and safety of any person; or

(2) a delay in bringing an enforcement action may result in financial loss or increased costs to any person, including the county.

(d) This section does not apply if an enforcement action has previously been filed against the subdivider for the same or another alleged violation.

SECTION _____. Section 232.021(9), Local Government Code, is repealed.

SECTION _____. This Act applies only to an enforcement action filed on or after the effective date of this Act. An enforcement action filed before the effective date of this Act is governed by the law as it existed when the action was filed, and the former law is continued in effect for that purpose.

SECTION _____. The changes in law made by this Act to Chapter 233, Local Government Code, apply only to new residential construction that commences on or after the effective date of this Act, except that if the county requires notice under Section 233.154(b), Local Government Code, this Act applies only to new residential construction for which notice was given on or after the effective date of this Act.

(4) Renumber the SECTIONS of the bill accordingly.

Floor Amendment No. 2 on Third Reading

Amend **SB 1816** on third reading by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 233.152, Local Government Code, is amended to read as follows:

Sec. 233.152. APPLICABILITY. (a) Except as provided by Subsection (b), this ~~This~~ subchapter applies only to new residential construction in a county that has adopted a resolution or order requiring the application of the provisions of this subchapter and that:

(1) is located within 50 miles of an international border; or

(2) has a population of more than 100.

(b) This subchapter does not apply to new residential construction if:

(1) the property on which the new residential construction is located is appraised for ad valorem tax purposes as land for agricultural use or open-space land under Subchapter C or D, Chapter 23, Tax Code;

(2) the new residential construction will not be located within 1,000 feet of a platted subdivision;

(3) the new residential construction is intended to be used as the primary residence of an individual who is the builder of, or acts as the general contractor for, the construction; and

(4) the new residential construction is:

(A) the first residential construction, as described by Section 233.151(a)(1), to be built on the property; or

(B) an addition to an existing single-family house or duplex, as described by Section 233.151(a)(2).

SECTION _____. Subchapter F, Chapter 233, Local Government Code, is amended by adding Section 233.1546 to read as follows:

Sec. 233.1546. CERTIFICATION OF COMPLIANCE; CONNECTION OF UTILITIES. (a) A county may require the issuance of a certificate of compliance as a precondition to obtaining utility services as provided by this section.

(b) The county shall, not later than the fifth business day after the date a request is received under this subsection, issue the requesting party a written certificate of compliance if:

(1) the county receives a written request from a person who builds new residential construction subject to this section, the person for whom the new residential construction is built, or an entity that provides utility service; and

(2) the requesting party demonstrates that the new residential construction has complied with all requirements applicable under this subchapter.

(c) An electric, gas, water, or sewer service utility may not permanently serve or connect new residential construction subject to this section with electricity, gas, water, sewer, or other utility service unless the utility receives a certificate issued by the county that states that compliance with all requirements applicable under this subchapter was demonstrated as provided by Subsection (b).

(d) Subsection (c) does not prevent the temporary use or connection of utilities necessary to complete new residential construction, including temporary use or connection of utilities to pass an inspection under this subchapter.

SECTION _____. The changes in law made by Section 233.152, Local Government Code, as amended by this Act, and Section 233.1546, Local Government Code, as added by this Act, apply only to new residential construction that commences on or after the effective date of this Act, except that if the county requires notice under Section 233.154(b), Local Government Code, the changes in law described by this section apply only to new residential construction for which notice was given on or after the effective date of this Act.

The amendments were read.

Senator Zaffirini 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 President asked if there were any motions to instruct the conference committee on **SB 1816** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate: Senators Zaffirini, Chair; Lucio, Rodriguez, Carona, and Fraser.

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 201 ADOPTED**

Senator Uresti called from the President's table the Conference Committee Report on **SB 201**. The Conference Committee Report was filed with the Senate on Saturday, May 21, 2011.

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

SENATE BILL 1534 WITH HOUSE AMENDMENTS

Senator Shapiro called **SB 1534** from the President's table for consideration of the House amendments to the bill.

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

Amendment

Amend **SB 1534** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to the operation and certification of career schools or colleges.

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

SECTION 1. Sections 132.001(1) and (4), Education Code, are amended to read as follows:

(1) "Career school or college":

(A) means any business enterprise operated for a profit or on a nonprofit basis that maintains a physical place of business within this state or solicits business within this state, that is not specifically exempted by this chapter, and:

(i) [~~(A)~~] that offers or maintains a course or courses of instruction or study; or

(ii) [~~(B)~~] at which place of business such a course or courses of instruction or study are available through classroom instruction or by distance education, or both, to a person for the purpose of training or preparing the person for a field of endeavor in a business, trade, technical, or industrial occupation, or for avocational or personal improvement; and

(B) does not include a school or educational institution that:

(i) is physically located in another state;

(ii) is legally authorized by the state of its physical location to offer postsecondary education and award degrees;

(iii) is accredited by a national accrediting organization recognized by the United States secretary of education under the Higher Education Act of 1965 (20 U.S.C. Section 1001 et seq.); and

(iv) offers in this state only postsecondary distance or correspondence programs of instruction.

(4) "Representative" means a person employed by a career school or college [~~whether the school or college is located within or without this state,~~] to act as an agent, solicitor, broker, or independent contractor to directly procure students for the school or college by solicitation within [~~or without~~] this state at any place.

SECTION 2. Sections 132.052 and 132.151, Education Code, are amended to read as follows:

Sec. 132.052. APPLICATION FOR CERTIFICATE OF APPROVAL. Every career school or college desiring to operate in this state ~~[or do business in this state]~~ shall make written application to the commission for a certificate of approval. Such application shall be verified, be in such form as may be prescribed by the commission, and shall furnish the commission such information as the commission may require.

Sec. 132.151. PROHIBITIONS. A person may not:

(1) operate a career school or college without a certificate of approval issued by the commission;

(2) solicit prospective students for or on behalf of a career school or college without being registered as a representative of the career school or college as required by this chapter;

(3) accept contracts or enrollment applications for or on behalf of a career school or college from a representative who is not bonded as required by this chapter;

(4) utilize advertising designed to mislead or deceive prospective students;

(5) fail to notify the commission of the closure ~~[discontinuance of the operation]~~ of any career school or college within 72 hours of cessation of classes and make available accurate records as required by this chapter;

(6) negotiate any promissory instrument received as payment of tuition or other charge by a career school or college prior to completion of 75 percent of the applicable program, provided that prior to such time, the instrument may be transferred by assignment to a purchaser who shall be subject to all the defenses available against the career school or college named as payee; or

(7) violate any provision of this chapter.

SECTION 3. Subchapter G, Chapter 132, Education Code, is amended by adding Section 132.202 to read as follows:

Sec. 132.202. REQUIRED POSTING BY CERTAIN SCHOOLS OR EDUCATIONAL INSTITUTIONS NOT OPERATING IN THIS STATE. (a) A school or educational institution described by Section 132.001(1)(B) shall post a conspicuous notice on the homepage of its website stating:

(1) that the career school or college is not regulated in Texas under Chapter 132 of the Texas Education Code;

(2) the name of any regulatory agencies which approve and regulate the school's programs in the state where the school is physically located and in which it has legal authorization to operate; and

(3) how to file complaints or make other contact with applicable regulatory agencies.

SECTION 4. Section 132.059(d), Education Code, is repealed.

SECTION 5. The changes in law made by this Act apply only to a certificate of approval issued, an action filed, or any other proceeding commenced under Chapter 132, Education Code, on or after the effective date of this Act. A certificate of approval issued, an action filed, or any other proceeding commenced before the effective date of this Act is covered by the law in effect at the time the certificate of approval was issued, the action was filed, or the other proceeding was commenced, and the former law is continued in effect for that purpose.

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

Floor Amendment No. 1 on Third Reading

Amend **CSSB 1534** on third reading as follows:

1. In SECTION 1 of the bill (page 2, line 2), after "by a", strike "national" and substitute "regional".

The amendments were read.

Senator Shapiro 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 President asked if there were any motions to instruct the conference committee on **SB 1534** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate: Senators Shapiro, Chair; Jackson, Harris, Eltife, and Zaffirini.

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 316 ADOPTED**

Senator Whitmire called from the President's table the Conference Committee Report on **SB 316**. The Conference Committee Report was filed with the Senate on Monday, May 23, 2011.

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 3647 ON SECOND READING**

On motion of Senator Ogden and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 3647** at this time on its second reading:

CSHB 3647, Relating to directing payment, after approval, of certain miscellaneous claims and judgments against the state out of funds designated by this Act; making appropriations.

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

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 3647 ON THIRD READING**

Senator Ogden moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 3647** be placed on its third reading and final passage.

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

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 2439 ON SECOND READING**

On motion of Senator Watson and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 2439** at this time on its second reading:

CSHB 2439, Relating to posting suggestions and ideas on cost-efficiency and certain budget documents on certain state agency websites.

The bill was read second time.

Senator Carona offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 2439** by adding the following appropriately numbered SECTION to the bill and renumbering the remaining SECTIONS of the bill accordingly:

SECTION __. (a) The legislature finds that:

(1) a competitive electric services market requires timely, accurate, and adequate information about the products and services offered to consumers in the market; and

(2) the Public Utility Commission of Texas operates an Internet website regarding the power to choose retail electric providers on which offers by those providers are published.

(b) Subchapter C, Chapter 39, Utilities Code, is amended by adding Section 39.110 to read as follows:

Sec. 39.110. TEXAS ELECTRIC CHOICE WEBSITE. (a) The commission shall publish and maintain an Internet website that allows customers to view competitive offers from retail electric providers. The website must enable a user to search by zip code offers available to a residential customer in the user's service area. Retail electric providers may, but are not required to, post offers available to residential customers on the website.

(b) At a minimum, the Internet website must include:

(1) features that make the website accessible to people with disabilities;

(2) a clear identification with each retail electric service price offer posted on the website of the category of the product as defined by commission rules;

(3) a searchable and sortable database of each retail electric provider offer on the website that allows the information to be read into a commercially available electronic database;

(4) information about the following programs available in the user's service area through a state agency or utility:

(A) energy efficiency programs, including weatherization and rebate programs;

(B) distributed renewable generation policies and programs, including rebate programs; and

(C) low-income utility assistance programs, including bill payment assistance, weatherization, and rebate programs; and

(5) access to information regarding retail electric providers' offers to residential distributed renewable generation owners for the owners' surplus electricity.

(c) The commission shall establish a project to implement this section. The commission shall create a working committee to provide input on the implementation of this section that is composed of members of commission staff, experts in user-centered web design, experts in consumer-choice web design, retail electric providers, consumer advocates, and representatives of various categories of potential users of the redesigned website, including people with disabilities and low-income customers.

(d) The commission shall establish protocols relating to the frequency with which information posted on the website is updated, except that a retail electric provider may not be limited with respect to the frequency with which the provider may change an offer.

(e) The commission shall consult and cooperate with other state agencies in the design, both for content and usability, of the website, including agencies providing low-income consumer assistance and energy efficiency assistance and the interagency coordinating group established under Section 535.053, Government Code.

(c) Section 39.116, Utilities Code, is amended to read as follows:

Sec. 39.116. NOTICE REGARDING CUSTOMER CHOICE INFORMATION.

A retail electric provider shall include on each residential customer's bill a statement, in at least 12-point type on the front of the first page, that reads: "For more information about residential electric service please visit www.powertochoose.com." This section expires September 1, 2023 ~~[2014]~~.

(d) The Public Utility Commission of Texas shall publish and begin operation of a redesigned Internet website as provided by Section 39.110, Utilities Code, as added by this section, not later than September 1, 2012.

(e) The Public Utility Commission of Texas may accept funds from any source, including gifts, grants, or donations, to implement Section 39.110, Utilities Code, as added by this section. The commission may not incorporate a preference for information displayed directly or indirectly in favor of any funding source. The commission may not require an entity to contribute funds to have information posted on the Internet website. Implementation of Section 39.110, Utilities Code, as added by this section, is contingent on a finding by the commission that sufficient funding exists or is likely to exist to carry out the provisions of Section 39.110, Utilities Code, as added by this section.

(f) Notwithstanding any other provision of this Act, this section takes effect September 1, 2011.

The amendment to **CSHB 2439** 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 Watson and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSHB 2439 as amended was passed to third reading by a viva voce vote.

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 2439 ON THIRD READING**

Senator Watson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2439** be placed on its third reading and final passage.

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

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

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

Tuesday, May 24, 2011 - 6

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 GRANTED THE REQUEST OF THE SENATE FOR THE APPOINTMENT OF A CONFERENCE COMMITTEE ON THE FOLLOWING MEASURES:

SB 23 (non-record vote)

House Conferees with Instructions: Zerwas - Chair/Davis, John/Gonzales, Veronica/Hopson/Pitts

SB 1811 (non-record vote)

House Conferees with Instructions: Pitts - Chair/Crownover/Eissler/Geren/Turner

THE HOUSE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

SB 28 (143 Yeas, 1 Nays, 2 Present, not voting)

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

CONFERENCE COMMITTEE ON HOUSE BILL 2817

Senator Duncan called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 2817** and moved that the request be granted.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **HB 2817** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate: Senators Duncan, Chair; Ellis, Jackson, Van de Putte, and Williams.

VOTES RECONSIDERED ON COMMITTEE SUBSTITUTE HOUSE BILL 6

On motion of Senator Shapiro and by unanimous consent, the vote by which **CSHB 6** was passed to third reading was reconsidered:

CSHB 6, Relating to the foundation curriculum, the establishment of the instructional materials allotment, and the adoption, review, and purchase of instructional materials and technological equipment for public schools.

Question — Shall **CSHB 6** as amended be passed to third reading?

On motion of Senator Patrick and by unanimous consent, the vote by which Floor Amendment No. 5 was adopted was reconsidered.

Question — Shall Floor Amendment No. 5 to **CSHB 6** be adopted?

Senator Patrick withdrew Floor Amendment No. 5.

On motion of Senator Patrick and by unanimous consent, the vote by which Floor Amendment No. 9 was adopted was reconsidered.

Question — Shall Floor Amendment No. 9 to **CSHB 6** be adopted?

Senator Patrick withdrew Floor Amendment No. 9.

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

CSHB 6 as amended was again passed to third reading by a viva voce vote.

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

COMMITTEE SUBSTITUTE HOUSE BILL 6 ON THIRD READING

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

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

The bill was read third time.

Senator Uresti offered the following amendment to the bill:

Floor Amendment No. 1 on Third Reading

Amend 2nd Reading Amendment No. 8 (Patrick) to **CSHB 6** on third reading by striking all below line 1 and substituting the following therefor:

(1) In SECTION 27 of the bill, amending Section 31.0231(c), Education Code (page 9, line 42), following the period, insert "The State Board of Education may review and comment on the material until the 90th day after the date the material is placed on the list."

(2) In SECTION 27 of the bill, amending Section 31.0231(e), Education Code (page 10, line 3), between the period and "~~Before~~", insert "The State Board of Education may, in the manner provided by Subsection (c), review and comment on material placed on the updated list."

The amendment to **CSHB 6** was read and was adopted by a viva voce vote.

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

Senator Uresti offered the following amendment to the bill:

Floor Amendment No. 2 on Third Reading

Amend **CSHB 6**, on third reading, in SECTION 30 of the bill, by striking amended Section 31.0241(b), Education Code (page 10, line 49, through page 11, line 9), and substituting the following:

(b) The State Board of Education shall place ~~an~~ open-source instructional material ~~textbook~~ for a secondary-level course submitted for adoption by an eligible institution on a conforming or nonconforming list if:

(1) the instructional material ~~textbook~~ is written, compiled, or edited primarily by faculty of the eligible institution who specialize in the subject area of the instructional material ~~textbook~~;

(2) the eligible institution identifies each contributing author;

(3) the appropriate department of the eligible institution certifies the instructional material ~~textbook~~ for accuracy; ~~and~~

(4) the eligible institution determines that the instructional material ~~textbook~~ qualifies for placement on the conforming or nonconforming list based on the extent to which the instructional material ~~textbook~~ covers the essential knowledge and skills identified under Section 28.002 for the subject for which the instructional material ~~textbook~~ is written and certifies that:

(A) for instructional material ~~a textbook~~ for a senior-level course, a student who successfully completes a course based on the instructional material ~~textbook~~ will be prepared, without remediation, for entry into the eligible institution's freshman-level course in that subject; or

(B) for instructional material ~~a textbook~~ for a junior-level and senior-level course, a student who successfully completes the junior-level course based on the instructional material ~~textbook~~ will be prepared for entry into the senior-level course; and

(5) by not later than the 90th day after the date the instructional material is submitted and before placement of the instructional material on the list, the board reviews and comments on the instructional material.

The amendment to **CSHB 6** was read and was adopted by a viva voce vote.

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

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

CSHB 6 as again amended was finally passed by the following vote: Yeas 31, Nays 0.

REMARKS ORDERED PRINTED

On motion of Senator Rodriguez and by unanimous consent, his remarks regarding **CSHB 6** were ordered reduced to writing and printed in the *Senate Journal* as follows:

In the Senate Committee Substitute for House Bill 6, it is unclear to me whether new English as a Second Language (ESL) materials are included as priorities for our children. I want us to clarify for the record that ESL materials are a priority.

First, the Senate version of H.B. 1 has enough money for ESL materials. The amount for new materials is \$389 million. TEA testified that's enough funding for both the English Language Arts and English as a Second Language materials that were part of Proclamation 2011 and that are due to classrooms this fall.

- English Language Arts materials cost about \$312 million
- English as a Second Language materials for grades K-8 cost about \$77 million

Second, ESL materials are essential to meeting college and career readiness standards and passing both the STAAR and End-of-Course Exams. The Senate's H.B. 6 language, in Section 31.0211(d-1), requires districts to purchase materials that help students achieve readiness on STAAR and EOCs.

To improve English comprehension, federal law—and our state curriculum and annual TELPAS proficiency tests—now require districts to tailor instruction according to English proficiency levels. In other words, customize education to meet the kids where they are and get them to where they need to be.

A student can be conversational in English. But if a student can't comprehend, in the abstract, the language he sees on a test, he is more likely to fail it. For a student who can't completely comprehend the language of instruction and of state exams, frustration can overtake perseverance.

For an elementary teacher, having an effective ESL program will be like having a good Swiss army knife. She can pull out different strategies and differentiate instruction for the widely varying skill levels she finds in her classroom. If something doesn't work, she can pull out another strategy. The new programs provide that array of effective tools.

Once students learn vocabulary and can comprehend what they read, they will learn academic content more readily in math, science, and other subjects. This will be all the more critical with the rising rigor of new state exams.

Finally, ESL materials are integral to stemming the state's growing tide of dropouts. Failing a state exam, because a student doesn't fully comprehend the language of instruction and examination, can have dire consequences on students and our state's economy.

The demographics speak for themselves. More than one in six Texas students belong to the rapidly growing group of kids who are struggling to learn English. In 1999-2000, there were 498,000 limited English proficient students (12.5 percent of 3.9 million). Ten years later, there are 815,998 (17 percent of 4.8 million). The new Census data confirms this trend.

This growth is coupled with eye-popping statistics on failure on state exams and risks of dropping out. This underscores the critical need for the Legislature to give teachers and schools the tools they need to effectively educate and keep these students in school.

If we expect Texas to have a skilled workforce in the future, and attract and retain good jobs in our state, it is imperative that we educate our growing population of students who can't speak English.

HOUSE BILL 2770 ON SECOND READING

On motion of Senator Williams and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2770** at this time on its second reading:

HB 2770, Relating to the powers and duties of navigation districts, port authorities, and certain municipalities.

The bill was read second time.

Senator Williams offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 2770** (senate committee printing) by striking SECTION 1 of the bill (page 1, lines 13-28) and renumbering subsequent SECTIONS accordingly.

The amendment to **HB 2770** was read and was adopted by a viva voce vote.

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

Senator Williams offered the following amendment to the bill:

Floor Amendment No. 2

Amend **HB 2770** (senate committee printing) on page 4, lines 2-37, by striking SECTION 11 of the bill and renumbering subsequent SECTIONS accordingly.

The amendment to **HB 2770** was read and was adopted by a viva voce vote.

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

Senator Williams offered the following amendment to the bill:

Floor Amendment No. 3

Amend **HB 2770** (senate committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter H, Chapter 60, Water Code, is amended by adding Section 60.207 to read as follows:

Sec. 60.207. AUDIT OF FUND. (a) A promotion and development fund established under this subchapter is subject to audit by the state auditor.

(b) The district shall reimburse the state auditor for all costs incurred by the state auditor associated with an audit under this section.

WILLIAMS
ELLIS

The amendment to **HB 2770** was read and was adopted by a viva voce vote.

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

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 4

Amend **HB 2770** by adding the following appropriately numbered SECTIONS and renumbering subsequent SECTIONS accordingly:

SECTION _____. Section 60.4035(a), Water Code, as amended by Chapters 415 (H.B. 1972) and 1191 (H.B. 3785), Acts of the 81st Legislature, Regular Session, 2009, is reenacted to read as follows:

(a) Notwithstanding the competitive bidding requirements and proposal procedures of this subchapter and Subchapter O and the requirements of Sections 60.408(a), (b), (c), (d), and (e), the executive director of a district or an officer of a district authorized in writing by the port commission may make emergency purchases or contracts or emergency amendments to existing purchase orders or contracts in an amount that exceeds the amount authorized under Section 60.403(a) for routine purchases or contracts if necessary:

(1) to preserve or protect the public health and safety of the residents of the district;

(2) to preserve the property of the district in the case of a public calamity;

(3) to repair unforeseen damage to the property of the district; or

(4) to respond to security directives issued by:

(A) the federal Department of Homeland Security, including the Transportation Security Administration;

(B) the United States Coast Guard;

(C) the federal Department of Transportation, including the Maritime Administration; or

(D) another federal or state agency responsible for domestic security.

SECTION _____. Sections 60.404(a) and (d), Water Code, as amended by Chapters 415 (H.B. 1972) and 1191 (H.B. 3785), Acts of the 81st Legislature, Regular Session, 2009, are reenacted to read as follows:

(a) If the materials, supplies, machinery, equipment, or other items to be purchased or contracted for are valued at an amount greater than the amount authorized under Section 60.403(a) for routine purchases or contracts, notice shall be published as provided by this section.

(d) The specifications must:

(1) describe in detail the item to be acquired;

(2) require that bids be sealed;

(3) require the attachment to the bid of a certified check, cashier's check, or bidders bond, if security is required in connection with the bid; and

(4) indicate whether a small business development program adopted by the port commission of the port authority or district applies to the purchase and, if so, where a copy of the program requirements may be obtained.

SECTION _____. Section 60.406(a), Water Code, as amended by Chapters 415 (H.B. 1972) and 1191 (H.B. 3785), Acts of the 81st Legislature, Regular Session, 2009, is reenacted to read as follows:

(a) Except as otherwise provided by Section 60.4035 or 60.412, before a district or port authority may purchase one or more items under a contract that will require an expenditure of more than the amount authorized under Section 60.403(a) for routine purchases or contracts, the port commission of that district or port authority must comply with the competitive bidding requirements or proposal procedures provided by this subchapter or Subchapter O. All bids must be sealed.

The amendment to **HB 2770** was read and was adopted by a viva voce vote.

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

Senator Whitmire offered the following amendment to the bill:

Floor Amendment No. 5

Amend **HB 2770** (senate committee printing) by adding the following SECTION to the bill and renumbering subsequent SECTIONS accordingly:

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

Sec. 9. SUNSET REVIEW. (a) The Port of Houston Authority is subject to review under Chapter 325, Government Code (Texas Sunset Act), as if it were a state agency but may not be abolished under that chapter. The review shall be conducted as if the authority were scheduled to be abolished September 1, 2013. Another review shall be conducted as if the authority were scheduled to be abolished September 1, 2019.

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

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

(d) This section expires September 1, 2019.

The amendment to **HB 2770** was read and was adopted by a viva voce vote.

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

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

HB 2770 as amended was passed to third reading by a viva voce vote.

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

HOUSE BILL 2770 ON THIRD READING

Senator Williams moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2770** be placed on its third reading and final passage.

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

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

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

Tuesday, May 24, 2011 - 7

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 CONCURRED IN THE SENATE AMENDMENTS TO THE FOLLOWING MEASURES:

HB 254 (118 Yeas, 23 Nays, 2 Present, not voting)

HB 338 (142 Yeas, 0 Nays, 2 Present, not voting)

HB 364 (113 Yeas, 30 Nays, 2 Present, not voting)

HB 447 (136 Yeas, 0 Nays, 1 Present, not voting)

HB 534 (142 Yeas, 0 Nays, 2 Present, not voting)

HB 1315 (132 Yeas, 6 Nays, 1 Present, not voting)

HB 1610 (144 Yeas, 1 Nays, 2 Present, not voting)

HB 1942 (118 Yeas, 26 Nays, 1 Present, not voting)

HB 1964 (145 Yeas, 0 Nays, 1 Present, not voting)

HB 2170 (143 Yeas, 0 Nays, 2 Present, not voting)

HB 2604 (142 Yeas, 0 Nays, 2 Present, not voting)

HB 2725 (141 Yeas, 0 Nays, 2 Present, not voting)

HB 3727 (143 Yeas, 0 Nays, 2 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 414 (non-record vote)

House Conferees: Aycock - Chair/Geren/Howard, Donna/Landtroop/Miller, Sid

HB 871 (non-record vote)

House Conferees: Davis, Yvonne - Chair/Coleman/Gooden/Naishtat/Reynolds

HB 1619 (non-record vote)

House Conferees: Orr - Chair/Coleman/Gonzales, Larry/Miller, Doug/Schwertner

THE HOUSE HAS GRANTED THE REQUEST OF THE SENATE FOR THE APPOINTMENT OF A CONFERENCE COMMITTEE ON THE FOLLOWING MEASURES:

SB 263 (non-record vote)

House Conferees: Kolkhorst - Chair/Coleman/Davis, Sarah/King, Susan/Zerwas

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

HOUSE BILL 3396 ON SECOND READING

On motion of Senator Patrick and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 3396** at this time on its second reading:

HB 3396, Relating to the prosecution of and punishment for the offense of breach of computer security.

The bill was read second time.

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 3396** (senate committee report) as follows:

(1) In SECTION 2 of the bill, in proposed Section 33.02(b-1), Penal Code, on page 1, strike lines 48 and 49 and substitute the following:

~~defraud [unless in committing the offense the actor knowingly obtains a benefit, defrauds] or harm [harms] another[;] or~~

(2) In SECTION 2 of the bill, in proposed Section 33.02(b-2), Penal Code, strike page 1, line 55, through page 2, line 11, and substitute the following:

(1) ~~[a Class A misdemeanor if the aggregate amount involved is less than \$1,500;~~

~~[(2)]~~ a state jail felony if [;

~~[(A)]~~ the aggregate amount involved is [~~\$1,500 or more but~~] less than \$20,000[; or

~~[(B)]~~ the aggregate amount involved is less than \$1,500 and the defendant has been previously convicted two or more times of an offense under this chapter];

~~(2)~~ ~~[(3)]~~ a felony of the third degree if the aggregate amount involved is \$20,000 or more but less than \$100,000;

~~(3)~~ ~~[(4)]~~ a felony of the second degree if:

(A) the aggregate amount involved is \$100,000 or more but less than \$200,000;

(B) the aggregate amount involved is any amount less than \$200,000 and the computer, computer network, or computer system is owned by the government or a critical infrastructure facility; or

(C) the actor obtains the identifying information of another by accessing only one computer, computer network, or computer system; or

(4) ~~(5)~~ a felony of the first degree if:

The amendment to **HB 3396** 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 Patrick and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 3396 as amended was passed to third reading by a viva voce vote.

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

HOUSE BILL 3396 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 **HB 3396** 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.

SENATE BILL 329 WITH HOUSE AMENDMENT

Senator Watson called **SB 329** from the President's table for consideration of the House amendment to the bill.

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

Amendment

Amend **SB 329** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to the sale, recovery, and recycling of certain television equipment; providing administrative penalties.

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

SECTION 1. Chapter 361, Health and Safety Code, is amended by adding Subchapter Z to read as follows:

SUBCHAPTER Z. TELEVISION EQUIPMENT RECYCLING PROGRAM

Sec. 361.971. DEFINITIONS. In this subchapter:

(1) "Brand" has the meaning assigned by Section 361.952.

(2) "Consumer" means an individual who uses covered television equipment that is purchased primarily for personal or home business use.

(3) "Covered television equipment" means the following equipment marketed to and intended for consumers:

(A) a direct view or projection television with a viewable screen of nine inches or larger whose display technology is based on cathode ray tube, plasma, liquid crystal, digital light processing, liquid crystal on silicon, silicon crystal reflective display, light-emitting diode, or similar technology; or

(B) a display device that is peripheral to a computer that contains a television tuner.

(4) "Market share allocation" means the quantity of covered television equipment, by weight, that an individual television manufacturer submitting a recovery plan under Section 361.978 is responsible for collecting, reusing, and recycling, as computed by the commission under Section 361.984(g).

(5) "Recycling" means any process by which equipment that would otherwise become solid waste or hazardous waste is collected, separated, and refurbished for reuse or processed to be returned to use in the form of raw material or products. The term does not include incineration.

(6) "Retailer" means a person who owns or operates a business that sells new covered television equipment by any means directly to a consumer. The term does not include a person who, in the ordinary course of business, regularly leases, offers to lease, or arranges for leasing of merchandise under a rental-purchase agreement.

(7) "Television" means an electronic device that contains a tuner that locks onto a selected carrier frequency and is capable of receiving and displaying video programming from a broadcast, cable, or satellite source.

(8) "Television manufacturer" means a person that:

(A) manufactures covered television equipment under a brand the person owns or is licensed to use;

(B) manufactures covered television equipment without affixing a brand;

(C) resells covered television equipment produced by other suppliers under a brand the person owns or is licensed to use;

(D) manufactures covered television equipment, supplies it to any person within a distribution network that includes a wholesaler or retailer, and benefits from the sale of the covered television equipment through that distribution network; or

(E) assumes the responsibilities of a television manufacturer under this subchapter.

Sec. 361.972. LEGISLATIVE FINDINGS AND PURPOSE. The purpose of this subchapter is to establish a comprehensive, convenient, and environmentally sound program for the collection and recycling of television equipment. The program is based on individual television manufacturer responsibility and shared responsibility among consumers, retailers, and the government of this state.

Sec. 361.973. APPLICABILITY. (a) Except as provided by this section and Section 361.991, this subchapter applies only to covered television equipment that is:

(1) offered for sale or sold to a consumer in this state; or

(2) used by a consumer in this state and returned for recycling.

(b) This subchapter does not apply to:

(1) computer equipment as that term is defined by Section 361.952;
(2) a manufacturer of a display device that is peripheral to a computer and contains a television tuner, if that manufacturer collects and recycles the device in accordance with Subchapter Y;

(3) any part of a motor vehicle, including a replacement part;
(4) a device that is functionally or physically part of or connected to another system or piece of equipment:

(A) designed and intended for use in an industrial, governmental, commercial, research and development, or medical setting, including diagnostic monitoring or control equipment; or

(B) used for security, sensing, monitoring, antiterrorism, or emergency services purposes;

(5) a device that is contained in exercise equipment intended for home use or an appliance intended for home use including a clothes washer, clothes dryer, refrigerator, refrigerator and freezer, microwave oven, conventional oven or range, dishwasher, room air conditioner, dehumidifier, and air purifier;

(6) a telephone of any type;

(7) a personal digital assistant;

(8) a global positioning system;

(9) a consumer's lease of covered television equipment or a consumer's use of covered television equipment under a lease agreement; or

(10) the sale or lease of covered television equipment to an entity when the television manufacturer and the entity enter into a contract that effectively addresses the recycling of equipment that has reached the end of its useful life.

Sec. 361.974. SALES PROHIBITION. A person may not offer for sale in this state new covered television equipment unless the equipment has been labeled in compliance with Section 361.975.

Sec. 361.975. MANUFACTURER'S LABELING REQUIREMENT. A television manufacturer may sell or offer for sale in this state only covered television equipment that is labeled with the television manufacturer's brand. The label must be permanently affixed and readily visible.

Sec. 361.976. MANUFACTURERS' REGISTRATION AND REPORTING. (a) A television manufacturer of covered television equipment shall register with the commission and, except as provided by Section 361.979, pay a registration fee of \$2,500. A registered television manufacturer shall renew the registration and, except as provided by Section 361.979, pay the fee on or before January 31 of each year. The registration or registration renewal must include:

(1) a list of all brands the television manufacturer uses in this state on covered television equipment regardless of whether the television manufacturer owns or is licensed to use the brand; and

(2) contact information for the person the commission may contact regarding the television manufacturer's activities to comply with this subchapter.

(b) Except as provided by Section 361.979, not later than January 31 of each year, each registered television manufacturer of covered television equipment shall report to the commission:

(1) the total weight of covered television equipment for which the television manufacturer is responsible that was sold in this state during the preceding calendar year or, if the manufacturer does not track the weight of covered television equipment it sells by state, the television manufacturer may report the total amount of covered television equipment the television manufacturer sold nationally in the preceding calendar year; and

(2) the total weight of covered television equipment the television manufacturer collected and recycled in this state during the preceding calendar year.

(c) Fees collected under this section shall be deposited to the credit of the television recycling account created under Section 361.977.

Sec. 361.977. TELEVISION RECYCLING ACCOUNT. (a) The television recycling account is an account in the general revenue fund that consists of the:

(1) fees collected under Section 361.976; and

(2) interest earned on the money in the account.

(b) Money in the account may be appropriated only to the commission to be used by the commission to maintain a public Internet website and toll-free telephone number that provide consumers with information about covered television equipment recycling opportunities in this state.

Sec. 361.978. MANUFACTURER'S RECOVERY PLAN AND RELATED RESPONSIBILITIES. (a) This section does not apply to a television manufacturer that participates in a recycling leadership program described by Section 361.979.

(b) Not later than the first January 31 that occurs after the date the television manufacturer first registers with the commission under Section 361.976, each television manufacturer of covered television equipment sold in this state shall, individually or as a member of a group of television manufacturers, submit to the commission a recovery plan to collect, reuse, and recycle covered television equipment.

(c) An individual television manufacturer that submits a recovery plan under Subsection (b) shall collect, reuse, and recycle covered television equipment. Beginning with the television manufacturer's second year of registration, the individual television manufacturer shall collect, reuse, and recycle the quantity of covered television equipment computed by the commission as the television manufacturer's market share allocation.

(d) A group of television manufacturers that submits a recovery plan under Subsection (b) shall collect, reuse, and recycle covered television equipment. Beginning with the second year of registration for a group of television manufacturers, the group of television manufacturers shall collect, reuse, and recycle a quantity of covered television equipment equal to the sum of the combined market share allocations of the group's participants.

(e) A recovery plan under Subsection (b) must include at a minimum:

(1) a statement of whether the television manufacturer intends to collect and recycle its market share allocation through operation of its plan, individually or in partnership with other television manufacturers;

(2) beginning with the television manufacturer's second year of registration, the total weight of covered television equipment collected, reused, and recycled by or on behalf of the television manufacturer during the preceding year; and

(3) collection methods that allow a consumer to recycle covered television equipment without paying a separate fee at the time of recycling.

(f) The commission shall review the recovery plan for satisfaction of the requirements of this subchapter. If the registration and recovery plan are complete, the commission shall include the television manufacturer on the commission's Internet website listing as provided by Section 361.984(a). The commission may reject the recovery plan if it does not meet all requirements of this subchapter.

Sec. 361.979. MANUFACTURER RECYCLING LEADERSHIP PROGRAM.

(a) A group of television manufacturers may establish a recycling leadership program to provide collection, transportation, and recycling infrastructure for covered television equipment in this state.

(b) A recycling leadership program must provide at least 200 individual collection sites or programs in this state in a manner described by Subsection (d) where a consumer may return covered television equipment for reuse or recycling.

(c) A television manufacturer may not charge a separate fee at the time of recycling under this section unless at the time of recycling a financial incentive of equal or greater value to the fee charged is provided by the television manufacturer.

(d) Collection methods that may be used by a recycling leadership program under Subsection (b) for recycling of covered television equipment include:

(1) a system by which the television manufacturer, an entity designated by the television manufacturer, or another private or public sector entity associated with the television manufacturer offers a consumer a physical collection site to return covered television equipment;

(2) a system by which the television manufacturer, an entity designated by the television manufacturer, or another private or public sector entity associated with the television manufacturer offers the consumer a method for returning covered television equipment by mail; and

(3) a system by which the television manufacturer, an entity designated by the television manufacturer, or another private or public sector entity associated with the television manufacturer holds a collection event where the consumer may return covered television equipment.

(e) A television manufacturer of covered television equipment sold in this state that is participating in a recycling leadership program for covered television equipment as of January 1 of any year is not subject during that year to:

(1) the registration fees and renewal fees required by Section 361.976(a);
and

(2) the reporting requirements of Section 361.976(b).

(f) Not later than January 31 of each year, each recycling leadership program must provide to the commission a list of the television manufacturers participating in the program for that year.

(g) A television manufacturer of covered television equipment that is sold in this state that participates in a recycling leadership program shall individually or through the recycling leadership program establish and implement a public education program regarding collection, reuse, and recycling opportunities that exist in this state for covered television equipment. The public education program must:

(1) inform consumers about the collection, reuse, and recycling opportunities for covered television equipment available in this state;

(2) work with the commission and other interested parties to develop educational materials that inform consumers about collection, reuse, and recycling opportunities available in this state;

(3) use television manufacturer-developed customer outreach materials, such as packaging inserts, television manufacturers' Internet websites, and other communication methods, to inform consumers about collection, reuse, and recycling opportunities for covered television equipment available in this state; and

(4) use television manufacturer-developed customer outreach materials to provide rural communities with a centralized Internet-based information center that provides information for those communities about:

(A) best practices for collection, reuse, and recycling of covered television equipment; and

(B) collection events and other recycling opportunities in those communities and surrounding areas.

Sec. 361.980. RECYCLING LEADERSHIP PROGRAM COLLECTION REPORT. (a) Not later than January 31 of every other year beginning with the television manufacturer's second year of registration, a television manufacturer of covered television equipment sold in this state that is participating in a recycling leadership program under Section 361.979 shall, individually or as a member of the recycling leadership program, submit to the commission a collection report regarding the television manufacturer's collection, reuse, and recycling of covered television equipment.

(b) The collection report must include:

(1) an inventory of covered television equipment collection, reuse, and recycling opportunities that are currently available to consumers through the individual television manufacturer or the recycling leadership program in this state;

(2) documentation of collection opportunities available to consumers in counties with populations of less than 50,000, including an analysis of the number of collection sites available to consumers in those counties compared to the number of opportunities available to consumers in those counties to purchase new covered television equipment;

(3) the amount by weight of the covered television equipment that the individual television manufacturer or the recycling leadership program collected in the two preceding years; and

(4) documentation that the collection, reuse, and recycling of the collected covered television equipment complies with Section 361.990.

(c) The inventory of covered television equipment collection, reuse, and recycling opportunities required by Subsection (b)(1) may be submitted in the form of a map noting the location of the opportunities.

(d) The collection report may include a listing of other existing collection and recycling infrastructure for covered television equipment not associated with the recycling leadership program, including electronic recyclers and repair shops,

recyclers of other appropriate commodities, reuse organizations, not-for-profit corporations, retailers, and other suitable operations, including local government collection events, if available.

Sec. 361.981. RETAILER RESPONSIBILITY. (a) A retailer may order and sell only products from a television manufacturer that is included on the list published under Section 361.984(a). A retailer shall consult that list before ordering covered television equipment in this state. A retailer is considered to have complied with this subsection and may sell a product in the retailer's inventory if, on the date the product was ordered from the television manufacturer, the television manufacturer was listed on the Internet website described by Section 361.984(a).

(b) A person who is a retailer of covered television equipment shall provide to consumers in writing the information published by the commission regarding the legal disposition and recycling of television equipment. The information may be included with the sales receipt or as part of the packaging of the equipment. Alternatively, the retailer may provide the information required by this subsection through a toll-free telephone number and address of an Internet website provided to consumers.

(c) This subchapter does not require a retailer to collect covered television equipment for recycling.

Sec. 361.982. RECYCLER RESPONSIBILITIES. (a) This section does not apply to a television manufacturer.

(b) A person who is engaged in the business of recycling covered television equipment in this state shall:

(1) register with the commission and certify that the person is in compliance with the standards adopted under Section 361.990;

(2) on or before January 31 of each year renew the registration with the commission and certify the person's continued compliance with the standards adopted under Section 361.990;

(3) recycle all covered television equipment accepted for recycling in accordance with the standards adopted under Section 361.990;

(4) maintain a written log recording the weight of all covered television equipment received by the person and the disposition of that equipment; and

(5) annually report to the commission the total weight of covered television equipment received and recycled by the person in the preceding 12 months.

Sec. 361.983. LIABILITY. (a) A television manufacturer, retailer, or person who recycles covered television equipment is not liable in any way for information in any form that a consumer leaves on covered television equipment that is collected or recycled under this subchapter.

(b) This subchapter does not exempt a person from liability under other law.

Sec. 361.984. COMMISSION RESPONSIBILITIES. (a) The commission shall publish on a publicly accessible Internet website a list of television manufacturers:

(1) whose recovery plans have been approved by the commission;

(2) whose public education programs are in full compliance with this subchapter; and

(3) who are in compliance with the registration and fee requirements of this subchapter, if applicable.

(b) The commission shall remove television manufacturers no longer in compliance under Subsection (a) from the Internet website once each fiscal quarter.

(c) The commission shall educate consumers regarding the collection and recycling of covered television equipment.

(d) The commission shall host or designate another person to host an Internet website and shall provide a toll-free telephone number to provide consumers with information about the recycling of covered television equipment, including best management practices and information about or links to information about:

(1) television manufacturers' collection and recycling programs, including television manufacturers' recovery plans; and

(2) covered television equipment collection events, collection sites, and community television equipment recycling programs.

(e) Information about collection and recycling provided on a television manufacturer's publicly available Internet website and through a toll-free telephone number does not constitute a determination by the commission that the television manufacturer's recovery plan or actual practices are in compliance with this subchapter or other law.

(f) Not later than November 1 of each year, the commission shall establish the state recycling rate by computing the ratio of the weight of total returns of covered television equipment in this state by television manufacturers submitting a recovery plan under Section 361.978 to the total weight of covered television equipment sold in this state by television manufacturers submitting a recovery plan under Section 361.978 during the preceding year.

(g) Not later than December 1 of each year, the commission shall compute and provide to each registered television manufacturer submitting a recovery plan under Section 361.978 the television manufacturer's market share allocation for collection, reuse, and recycling for that year. A television manufacturer's market share allocation equals the weight of the television manufacturer's covered television equipment sold in this state during the preceding calendar year multiplied by the state recycling rate determined under Subsection (f).

(h) In any year in which more than one recycling leadership program is implemented under Section 361.979, the commission shall review all active recycling leadership programs established under this subchapter to ensure the programs are operating in a manner consistent with the goals of this subchapter, including a balanced recycling effort. Based on the commission's review, the commission may make recommendations to the legislature on ways to improve the balance of the recycling effort.

(i) The commission shall provide to each county and municipality of this state information regarding the legal disposal and recycling of covered television equipment. The information must be provided in writing.

Sec. 361.985. ENFORCEMENT. (a) The commission may conduct audits and inspections to ensure compliance with this subchapter and rules adopted under this subchapter.

(b) The commission and the attorney general, as appropriate, shall enforce this subchapter and, except as provided by Subsections (d) and (e), take enforcement action against a television manufacturer, a retailer, or a person who recycles covered television equipment.

(c) The executive director or the attorney general may institute a suit under Section 7.032, Water Code, to enjoin an activity related to the sale of covered television equipment in violation of this subchapter.

(d) The commission shall issue a warning notice to a person on the person's first violation of this subchapter. The person must comply with this subchapter not later than the 60th day after the date the warning notice is issued.

(e) A retailer who receives a warning notice from the commission that the retailer's inventory violates this subchapter because it includes covered television equipment from a television manufacturer that is not in compliance with this subchapter must bring the inventory into compliance with this subchapter not later than the 60th day after the date the warning notice is issued.

Sec. 361.986. FINANCIAL AND PROPRIETARY INFORMATION. Financial or proprietary information submitted to the commission under this subchapter is exempt from public disclosure under Chapter 552, Government Code.

Sec. 361.987. BIENNIAL REPORT TO LEGISLATURE. (a) The commission shall compile information from television manufacturers and issue an electronic report to the committee in each house of the legislature having primary jurisdiction over environmental matters not later than March 1 of each even-numbered year.

(b) The report must include:

(1) collection information provided to the commission by each television manufacturer's report required by Section 361.976(b) or 361.980(a), as applicable;

(2) a summary of comments that have been received from stakeholders such as television manufacturers, electronic equipment recyclers, local governments, and nonprofit organizations;

(3) any recommendations under Section 361.984(h); and

(4) any other information that would assist the legislature in evaluating the effectiveness of this subchapter.

Sec. 361.988. FEES. (a) Except as provided by Section 361.976(a), this subchapter does not authorize the commission to impose a fee, including a recycling fee, on a consumer, television manufacturer, retailer, or person who recycles covered television equipment.

(b) Fees or costs collected under this subchapter may be used by the commission only to implement this subchapter.

Sec. 361.989. CONSUMER RESPONSIBILITIES. (a) A consumer is responsible for any information in any form left on the consumer's covered television equipment that is collected or recycled.

(b) A consumer is encouraged to learn about recommended methods for recycling covered television equipment that has reached the end of its useful life by visiting the commission's and television manufacturers' Internet websites or calling their toll-free telephone numbers.

Sec. 361.990. MANAGEMENT OF COLLECTED TELEVISION EQUIPMENT. (a) Covered television equipment collected under this subchapter must be disposed of or recycled in a manner that complies with federal, state, and local law.

(b) The commission shall adopt as standards for recycling or reuse of covered television equipment in this state the standards provided by "Electronics Recycling Operating Practices" as approved by the board of directors of the Institute of Scrap Recycling Industries, Inc., April 25, 2006, or other standards from a comparable nationally recognized organization.

Sec. 361.991. STATE PROCUREMENT REQUIREMENTS. (a) In this section, "state agency" has the meaning assigned by Section 2052.101, Government Code.

(b) A person who submits a bid for a contract with a state agency for the purchase or lease of covered television equipment must be in compliance with this subchapter.

(c) A state agency that purchases or leases covered television equipment shall require a prospective bidder to certify the bidder's compliance with this subchapter before the agency may accept the prospective bidder's bid.

(d) In considering bids for a contract for covered television equipment, in addition to any other preferences provided under other laws of this state, the state shall give special preference to a television manufacturer that:

(1) through its recovery plan collects more than its market share allocation;

or

(2) provides collection sites or recycling events in any county located in a council of governments region in which there are fewer than six permanent collection sites open at least twice each month.

(e) The comptroller shall adopt rules to implement this section.

Sec. 361.992. FEDERAL PREEMPTION; EXPIRATION. (a) If federal law establishes a national program for the collection and recycling of covered television equipment and the commission determines that the federal law substantially meets the purposes of this subchapter, the commission may adopt an agency statement that interprets the federal law as preemptive of this subchapter.

(b) This subchapter expires on the date the commission issues a statement under this section.

SECTION 2. Sections 7.052(b-1) and (b-2), Water Code, are amended to read as follows:

(b-1) The amount of the penalty assessed against a manufacturer that does not label its computer equipment or covered television equipment or adopt and implement a recovery plan as required by Section 361.955, 361.975, or 361.978, Health and Safety Code, as applicable, may not exceed \$10,000 for the second violation or \$25,000 for each subsequent violation. A penalty under this subsection is in addition to any other penalty that may be assessed for a violation of Subchapter Y or Z, Chapter 361, Health and Safety Code.

(b-2) Except as provided by Subsection (b-1), the amount of the penalty for a violation of Subchapter Y or Z, Chapter 361, Health and Safety Code, may not exceed \$1,000 for the second violation or \$2,000 for each subsequent violation. A penalty under this subsection is in addition to any other penalty that may be assessed for a violation of Subchapter Y or Z, Chapter 361, Health and Safety Code.

SECTION 3. (a) The Texas Commission on Environmental Quality shall adopt any rules required to implement this Act not later than May 1, 2012.

(b) This Act may not be enforced before July 1, 2012.

(c) A report required under Section 361.976, Health and Safety Code, as added by this Act, is not required to be prepared or submitted for the first time before January 31, 2013.

(d) A recovery plan required under Section 361.978, Health and Safety Code, as added by this Act, is not required to be prepared and submitted before January 31, 2013.

(e) A collection report required under Section 361.980, Health and Safety Code, as added by this Act, is not required to be prepared and submitted for the first time before January 31, 2015.

(f) A retailer of covered television equipment is not required to provide the information described by Section 361.981(b), Health and Safety Code, as added by this Act, before the date on which the Texas Commission on Environmental Quality rules implementing this Act take effect.

(g) Not later than April 1, 2013, the Texas Commission on Environmental Quality shall prepare and post for the first time the list required under Section 361.984(a), Health and Safety Code, as added by this Act.

(h) Not later than November 1, 2013, the Texas Commission on Environmental Quality shall establish for the first time the state recycling rate required under Section 361.984(f).

(i) Not later than December 1, 2013, the Texas Commission on Environmental Quality shall provide for the first time to each applicable television manufacturer the television manufacturer's market share allocation as required under Section 361.984(g).

(j) Notwithstanding Section 361.985, Health and Safety Code, as added by this Act, a retailer of television equipment may sell television equipment inventory that the retailer acquired before September 1, 2012, without incurring a penalty.

(k) The Texas Commission on Environmental Quality is not required to prepare or submit for the first time the report required under Section 361.987, Health and Safety Code, as added by this Act, before March 1, 2014.

SECTION 4. This Act takes effect September 1, 2011.

The amendment was read.

Senator Watson moved to concur in the House amendment to **SB 329**.

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

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

Nays: Birdwell, Patrick.

**MOTION TO PLACE
HOUSE BILL 12 ON SECOND READING**

Senator Williams moved to suspend the regular order of business to take up for consideration **HB 12** at this time on its second reading:

HB 12, Relating to the enforcement of state and federal laws governing immigration by certain governmental entities.

The motion was lost by the following vote: Yeas 19, Nays 12. (Not receiving two-thirds vote of Members present)

Yeas: Birdwell, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Harris, Hegar, Huffman, Jackson, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Wentworth, Williams.

Nays: Davis, Ellis, Gallegos, Hinojosa, Lucio, Rodriguez, Uresti, Van de Putte, Watson, West, Whitmire, Zaffirini.

**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 9:00 a.m. tomorrow and that all bills and resolutions would be considered on second and third reading in the order in which they were listed.

MOTION TO RECESS

On motion of Senator Whitmire and by unanimous consent, the Senate at 11:22 p.m. agreed to recess, upon conclusion of the Local and Uncontested Calendar Session, until 10:30 a.m. tomorrow.

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 321**

Senator Hegar submitted the following Conference Committee Report:

Austin, Texas
May 23, 2011

Honorable David Dewhurst
President of the Senate

Honorable Joe Straus
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 321** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

HEGAR
WENTWORTH

KLEINSCHMIDT
GUILLEN

PATRICK
 BIRDWELL
 WHITMIRE
 On the part of the Senate

FLETCHER
 GEREN
 HARDCASTLE
 On the part of the House

A BILL TO BE ENTITLED
 AN ACT

relating to an employee's transportation and storage of certain firearms or ammunition while on certain property owned or controlled by the employee's employer.

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

SECTION 1. Chapter 52, Labor Code, is amended by adding Subchapter G to read as follows:

SUBCHAPTER G. RESTRICTIONS ON PROHIBITING EMPLOYEE
 TRANSPORTATION OR STORAGE OF CERTAIN FIREARMS OR
 AMMUNITION

Sec. 52.061. RESTRICTION ON PROHIBITING EMPLOYEE ACCESS TO
 OR STORAGE OF FIREARM OR AMMUNITION. A public or private employer
 may not prohibit an employee who holds a license to carry a concealed handgun under
 Subchapter H, Chapter 411, Government Code, who otherwise lawfully possesses a
 firearm, or who lawfully possesses ammunition from transporting or storing a firearm
 or ammunition the employee is authorized by law to possess in a locked, privately
 owned motor vehicle in a parking lot, parking garage, or other parking area the
 employer provides for employees.

Sec. 52.062. EXCEPTIONS. (a) Section 52.061 does not:

(1) authorize a person who holds a license to carry a concealed handgun
 under Subchapter H, Chapter 411, Government Code, who otherwise lawfully
 possesses a firearm, or who lawfully possesses ammunition to possess a firearm or
 ammunition on any property where the possession of a firearm or ammunition is
 prohibited by state or federal law; or

(2) apply to:

(A) a vehicle owned or leased by a public or private employer and used
 by an employee in the course and scope of the employee's employment, unless the
 employee is required to transport or store a firearm in the official discharge of the
 employee's duties;

(B) a school district;

(C) an open-enrollment charter school, as defined by Section 5.001,
 Education Code;

(D) a private school, as defined by Section 22.081, Education Code;

(E) property owned or controlled by a person, other than the employer,
 that is subject to a valid, unexpired oil, gas, or other mineral lease that contains a
 provision prohibiting the possession of firearms on the property; or

(F) property owned or leased by a chemical manufacturer or oil and gas
 refiner with an air authorization under Chapter 382, Health and Safety Code, and on
 which the primary business conducted is the manufacture, use, storage, or
 transportation of hazardous, combustible, or explosive materials, except in regard to
 an employee who holds a license to carry a concealed handgun under Subchapter H,
 Chapter 411, Government Code, and who stores a firearm or ammunition the

employee is authorized by law to possess in a locked, privately owned motor vehicle in a parking lot, parking garage, or other parking area the employer provides for employees that is outside of a secured and restricted area:

- (i) that contains the physical plant;
- (ii) that is not open to the public; and
- (iii) the ingress into which is constantly monitored by security

personnel.

(b) Section 52.061 does not prohibit an employer from prohibiting an employee who holds a license to carry a concealed handgun under Subchapter H, Chapter 411, Government Code, or who otherwise lawfully possesses a firearm, from possessing a firearm the employee is otherwise authorized by law to possess on the premises of the employer's business. In this subsection, "premises" has the meaning assigned by Section 46.035(f)(3), Penal Code.

Sec. 52.063. IMMUNITY FROM CIVIL LIABILITY. (a) Except in cases of gross negligence, a public or private employer, or the employer's principal, officer, director, employee, or agent, is not liable in a civil action for personal injury, death, property damage, or any other damages resulting from or arising out of an occurrence involving a firearm or ammunition that the employer is required to allow on the employer's property under this subchapter.

(b) The presence of a firearm or ammunition on an employer's property under the authority of this subchapter does not by itself constitute a failure by the employer to provide a safe workplace.

(c) For purposes of this section, a public or private employer, or the employer's principal, officer, director, employee, or agent, does not have a duty:

(1) to patrol, inspect, or secure:

(A) any parking lot, parking garage, or other parking area the employer provides for employees; or

(B) any privately owned motor vehicle located in a parking lot, parking garage, or other parking area described by Paragraph (A); or

(2) to investigate, confirm, or determine an employee's compliance with laws related to the ownership or possession of a firearm or ammunition or the transportation and storage of a firearm or ammunition.

Sec. 52.064. CONSTRUCTION OF PROVISION RELATING TO IMMUNITY FROM CIVIL LIABILITY. Section 52.063 does not limit or alter the personal liability of:

(1) an individual who causes harm or injury by using a firearm or ammunition;

(2) an individual who aids, assists, or encourages another individual to cause harm or injury by using a firearm or ammunition; or

(3) an employee who transports or stores a firearm or ammunition on the property of the employee's employer but who fails to comply with the requirements of Section 52.061.

SECTION 2. Section 411.203, Government Code, is amended to read as follows:

Sec. 411.203. RIGHTS OF EMPLOYERS. This subchapter does not prevent or otherwise limit the right of a public or private employer to prohibit persons who are licensed under this subchapter from carrying a concealed handgun on the premises of the business. In this section, "premises" has the meaning assigned by Section 46.035(f)(3), Penal Code.

SECTION 3. The change in law made by this Act applies only to a cause of action that accrues on or after the effective date of this Act. A cause of action that accrues before that date is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 4. This Act takes effect September 1, 2011.

The Conference Committee Report on **SB 321** was filed with the Secretary of the Senate on Monday, May 23, 2011.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 275**

Senator Ogden submitted the following Conference Committee Report:

Austin, Texas
May 23, 2011

Honorable David Dewhurst
President of the Senate

Honorable Joe Straus
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 275** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

OGDEN
PATRICK
FRASER
DUNCAN
ELTIFE

PITTS
AYCOCK
DARBY
MORRISON

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 275** was filed with the Secretary of the Senate on Monday, May 23, 2011.

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 28**

Senator Zaffirini submitted the following Conference Committee Report:

Austin, Texas
May 20, 2011

Honorable David Dewhurst
President of the Senate

Honorable Joe Straus
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 28** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

ZAFFIRINI

CARONA

DUNCAN

ELTIFE

WATSON

On the part of the Senate

BRANCH

D. HOWARD

HUNTER

PATRICK

VILLARREAL

On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to eligibility for a TEXAS grant and to administration of the TEXAS grant program.

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

SECTION 1. This Act shall be known as the TEXAS Grant College Readiness Reform Act.

SECTION 2. Section 56.303, Education Code, is amended by amending Subsection (d) and adding Subsections (d-1), (e), and (f) to read as follows:

(d) From money appropriated by the legislature for the purposes of this subchapter, the coordinating board annually shall determine the allocation of money available for TEXAS grants among general academic teaching institutions and other eligible institutions and shall distribute the money accordingly.

(d-1) In allocating among general academic teaching institutions money available for initial TEXAS grants for an academic year, the coordinating board shall ensure that each of those institutions' percentage share of the total amount of money for initial grants that is allocated to general academic teaching institutions under this subsection for that year does not, as a result of the number of students who establish eligibility at the institution for an initial grant under Section 56.3041(2)(A), change from the institution's percentage share of the total amount of money for initial grants that is allocated to those institutions under this subsection for the preceding academic year.

(e) In determining who should receive a TEXAS grant, the coordinating board and the eligible institutions shall give ~~highest~~ priority to awarding TEXAS grants to students who demonstrate the greatest financial need and whose expected family contribution, as determined according to the methodology used for federal student financial aid, does not exceed 60 percent of the average statewide amount of tuition and required fees described by Section 56.307(a). In giving priority based on financial need as required by this subsection to students who meet the requirements for the highest priority as provided by Subsection (f), a general academic teaching

institution shall determine financial need according to the relative expected family contribution of those students, beginning with students who have the lowest expected family contribution.

(f) Beginning with TEXAS grants awarded for the 2013-2014 academic year, in determining who should receive an initial TEXAS grant, each general academic teaching institution, in addition to giving priority as provided by Subsection (e), shall give highest priority to students who meet the eligibility criteria described by Section 56.3041(2)(A). If there is money available in excess of the amount required to award an initial TEXAS grant to all students meeting those criteria, a general academic teaching institution shall make awards to other students who meet the eligibility criteria described by Section 56.304(a)(2)(A), provided that the institution continues to give priority to students as provided by Subsection (e).

SECTION 3. Subsection (h), Section 56.304, Education Code, is amended to read as follows:

(h) The coordinating board shall adopt rules to allow a person who is otherwise eligible to receive a TEXAS grant, in the event of a hardship or for other good cause shown, including a showing of a severe illness or other debilitating condition that may affect the person's academic performance or that the person is responsible for the care of a sick, injured, or needy person and that the person's provision of care may affect the person's academic performance, to receive a TEXAS grant while enrolled in a number of semester credit hours that is less than the number of semester credit hours required under Subsection (a)(5) or Section 56.3041(5), as applicable. The coordinating board may not allow a person to receive a TEXAS grant while enrolled in fewer than six semester credit hours.

SECTION 4. Subchapter M, Chapter 56, Education Code, is amended by amending Section 56.3041 and adding Section 56.3042 to read as follows:

Sec. 56.3041. INITIAL ELIGIBILITY OF PERSON GRADUATING FROM HIGH SCHOOL ON OR AFTER MAY 1, 2013, AND ENROLLING IN A GENERAL ACADEMIC TEACHING INSTITUTION. Notwithstanding Section 56.304(a), to be eligible initially for a TEXAS grant, a person graduating from high school on or after May 1, 2013, and enrolling in a general academic teaching institution must:

(1) be a resident of this state as determined by coordinating board rules;
(2) meet the academic requirements prescribed by Paragraph (A), (B), or (C) as follows:

(A) be a graduate of a public or accredited private high school in this state who completed the recommended high school program established under Section 28.025 or its equivalent and have accomplished any two or more of the following:

(i) graduation under the advanced high school program established under Section 28.025 or its equivalent, successful completion of the course requirements of the international baccalaureate diploma program, or earning of the equivalent of at least 12 semester credit hours of college credit in high school through courses described in Sections 28.009(a)(1), (2), and (3);

(ii) satisfaction of the Texas Success Initiative (TSI) college readiness benchmarks prescribed by the coordinating board under Section 51.3062(f) on any assessment instrument designated by the coordinating board under Section 51.3062(c) or (e) or qualification for an exemption as described by Section 51.3062(p), (q), or (q-1);

(iii) graduation in the top one-third of the person's high school graduating class or graduation from high school with a grade point average of at least 3.0 on a four-point scale or the equivalent; or

(iv) completion for high school credit of at least one advanced mathematics course following the successful completion of an Algebra II course, as permitted by Section 28.025(b-3), or at least one advanced career and technical course, as permitted by Section 28.025(b-2);

(B) have received an associate degree from a public or private institution of higher education; or

(C) if sufficient money is available, meet the eligibility criteria described by Section 56.304(a)(2)(A);

(3) meet financial need requirements established by the coordinating board;

(4) be enrolled in an undergraduate degree or certificate program at the general academic teaching institution;

(5) except as provided under rules adopted under Section 56.304(h), be enrolled as:

(A) an entering undergraduate student for at least three-fourths of a full course load, as determined by the coordinating board, not later than the 16th month after the calendar month in which the person graduated from high school;

(B) an entering undergraduate student who entered military service not later than the first anniversary of the date the person graduated from high school and who enrolled for at least three-fourths of a full course load, as determined by the coordinating board, at the general academic teaching institution not later than 12 months after being honorably discharged from military service; or

(C) a continuing undergraduate student for at least three-fourths of a full course load, as determined by the coordinating board, not later than the 12th month after the calendar month in which the person received an associate degree from a public or private institution of higher education;

(6) have applied for any available financial aid or assistance; and

(7) comply with any additional nonacademic requirements adopted by the coordinating board under this subchapter.

Sec. 56.3042. INITIAL QUALIFICATION [~~ELIGIBILITY~~] OF PERSON ON TRACK TO MEET ELIGIBILITY REQUIREMENTS [~~COMPLETE RECOMMENDED OR ADVANCED CURRICULUM~~]. (a) If at the time an eligible institution awards TEXAS grants to initial recipients for an academic year an applicant has not completed high school or the applicant's final high school transcript is not yet available to the institution, the student is considered to have satisfied the eligibility requirements of Section 56.304(a)(2)(A) or 56.3041(2)(A) if the student's available high school transcript indicates that at the time the transcript was prepared the student was on schedule to graduate from high school and to meet the eligibility

requirements ~~[complete the recommended or advanced high school curriculum or its equivalent]~~, as applicable to the student, in time to be eligible for a TEXAS grant for the academic year.

(a-1) If at the time an eligible institution awards TEXAS grants to initial recipients for an academic year an applicant who is an associate degree candidate has not completed that degree or the applicant's final college transcript is not yet available to the institution, the student is considered to have satisfied the associate degree requirement of Section 56.304(a)(2)(B) or 56.3041(2)(B) if the student's available college transcript indicates that at the time the transcript was prepared the student was on schedule to complete the associate degree in time to be eligible for a TEXAS grant for the academic year.

(b) The coordinating board or the eligible institution may require the student to forgo or repay the amount of an initial TEXAS grant awarded to the student as described by Subsection (a) or (a-1) if the student fails to meet the eligibility requirements of Section 56.304(a)(2)(A), 56.3041(2)(A), 56.304(a)(2)(B), or 56.3041(2)(B), as applicable to the student, [complete the recommended or advanced high school curriculum or its equivalent] after the issuance of the available high school or college transcript.

(c) A person who is required to forgo or repay the amount of an initial TEXAS grant under Subsection (b) may subsequently become eligible to receive an initial TEXAS grant under Section 56.304 or 56.3041 by satisfying the associate degree requirement prescribed by Section 56.304(a)(2)(B) or 56.3041(2)(B) and the other ~~[applicable]~~ requirements of those sections applicable to the person [that section] at the time the person reapplies for the grant.

(d) A person who receives an initial TEXAS grant under Subsection (a) or (a-1) and is not required to forgo or repay the amount of the grant under Subsection (b) may become eligible to receive a subsequent TEXAS grant under Section 56.305 only by satisfying the associate degree requirement prescribed by Section 56.304(a)(2)(B) or 56.3041(2)(B), as applicable to the person, in addition to the requirements of Section 56.305 at the time the person applies for the subsequent grant.

SECTION 5. Subchapter M, Chapter 56, Education Code, is amended by adding Section 56.3045 to read as follows:

Sec. 56.3045. TOLLING OF ELIGIBILITY FOR INITIAL AWARD. (a) This section applies only to a person who:

(1) was eligible to receive an initial TEXAS grant in an academic year for which sufficient money was not available through legislative appropriations to allow the coordinating board to award initial TEXAS grants to at least 10 percent of the persons eligible for initial TEXAS grants in that year, as determined by the coordinating board;

(2) has not previously been awarded a TEXAS grant; and

(3) has not received a baccalaureate degree.

(b) Provided that the person meets the requirements described by Section 56.305(a), a person to whom this section applies is eligible to receive an initial TEXAS grant in any academic year in which funding is sufficient to award initial TEXAS grants to eligible applicants for that year. The person's eligibility for an initial TEXAS grant under this section is not affected by:

(1) the period for which the person has been enrolled at an eligible institution; or

(2) any statutory changes to the eligibility requirements for initial TEXAS grants that are enacted after the person first established eligibility for an initial TEXAS grant as described by Subsection (a)(1).

(c) A person who is eligible for an initial TEXAS grant under this section is entitled to the highest priority as described by Section 56.303(f) if the person was entitled to that priority when the person first established eligibility for an initial TEXAS grant as described by Subsection (a)(1).

(d) A person who receives an initial TEXAS grant under this section:

(1) may receive subsequent TEXAS grants as provided by Section 56.305;
and

(2) is not entitled to TEXAS grants for any previously completed academic year.

SECTION 6. Section 56.311, Education Code, is amended by adding Subsection (c-1) to read as follows:

(c-1) Not later than September 1 of each year, the coordinating board shall provide a report to the committee regarding the operation of the TEXAS grant program, including information from the three preceding state fiscal years as follows:

(1) allocations of TEXAS grants by eligible institution, disaggregated by initial and subsequent awards;

(2) the number of TEXAS grants awarded to students disaggregated by race, ethnicity, and expected family contribution;

(3) disaggregated as required by Subdivision (2) and reported both on a statewide basis and for each eligible institution, the number of TEXAS grants awarded to students who meet:

(A) only the eligibility criteria described by Section 56.304; or

(B) the eligibility criteria described by Section 56.3041(2)(A); and

(4) the persistence, retention, and graduation rates of students receiving TEXAS grants.

SECTION 7. The change in law made to Subchapter M, Chapter 56, Education Code, by this Act applies beginning with TEXAS grants awarded for the 2013 fall semester. Grants awarded for a semester or term before the 2013 fall semester are governed by the applicable law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

SECTION 8. This Act takes effect September 1, 2011.

The Conference Committee Report on **SB 28** was filed with the Secretary of the Senate on Tuesday, May 24, 2011.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 3302

Senator Hegar submitted the following Conference Committee Report:

Austin, Texas
May 24, 2011

Honorable David Dewhurst
President of the Senate

Honorable Joe Straus
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 3302** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

HEGAR
ELTIFE
HINOJOSA
JACKSON
PATRICK

On the part of the Senate

REYNOLDS
R. ANDERSON
MILES
MURPHY
VO

On the part of the House

The Conference Committee Report on **HB 3302** was filed with the Secretary of the Senate.

CO-SPONSOR OF HOUSE BILL 12

On motion of Senator Williams, Senator Nelson will be shown as Co-sponsor of **HB 12**.

CO-SPONSOR OF HOUSE CONCURRENT RESOLUTION 50

On motion of Senator Patrick, Senator Nelson will be shown as Co-sponsor of **HCR 50**.

RESOLUTIONS OF RECOGNITION

The following resolutions were adopted by the Senate:

Congratulatory Resolutions

SR 1144 by Uresti, Recognizing the Harlandale Independent School District for winning the H-E-B Excellence in Education Award.

SR 1146 by Ogden, Recognizing Chris Osborne on the occasion of the 25th anniversary of his ministry at Central Baptist Church of Bryan-College Station.

SR 1148 by Ellis, Recognizing Lindsey Hall for being presented by the Alpha Kappa Omega Chapter of Alpha Kappa Alpha Sorority, Incorporated, at its 13th Biennial Debutante Cotillion.

SR 1149 by Ellis, Recognizing Alicia Frederick for being presented by the Alpha Kappa Omega Chapter of Alpha Kappa Alpha Sorority, Incorporated, at its 13th Biennial Debutante Cotillion.

SR 1150 by Ellis, Recognizing Adrienne Tate for being presented by the Alpha Kappa Omega Chapter of Alpha Kappa Alpha Sorority, Incorporated, at its 13th Biennial Debutante Cotillion.

SR 1151 by Ellis, Recognizing Hannah Johannes for being presented by the Alpha Kappa Omega Chapter of Alpha Kappa Alpha Sorority, Incorporated, at its 13th Biennial Debutante Cotillion.

SR 1152 by Ellis, Recognizing Kaylan Young for being presented by the Alpha Kappa Omega Chapter of Alpha Kappa Alpha Sorority, Incorporated, at its 13th Biennial Debutante Cotillion.

SR 1153 by Ellis, Recognizing Alexis Williams for being presented by the Alpha Kappa Omega Chapter of Alpha Kappa Alpha Sorority, Incorporated, at its 13th Biennial Debutante Cotillion.

SR 1154 by Ellis, Recognizing Alexys Nunn for being presented by the Alpha Kappa Omega Chapter of Alpha Kappa Alpha Sorority, Incorporated, at its 13th Biennial Debutante Cotillion.

SR 1155 by Ellis, Recognizing Brionne Doyle for being presented by the Alpha Kappa Omega Chapter of Alpha Kappa Alpha Sorority, Incorporated, at its 13th Biennial Debutante Cotillion.

SR 1156 by Ellis, Recognizing Shaniese Foster for being presented by the Alpha Kappa Omega Chapter of Alpha Kappa Alpha Sorority, Incorporated, at its 13th Biennial Debutante Cotillion.

SR 1157 by Ellis, Recognizing Bre'On Long for being presented by the Alpha Kappa Omega Chapter of Alpha Kappa Alpha Sorority, Incorporated, at its 13th Biennial Debutante Cotillion.

SR 1158 by Ellis, Recognizing Karyn Korsah for being presented by the Alpha Kappa Omega Chapter of Alpha Kappa Alpha Sorority, Incorporated, at its 13th Biennial Debutante Cotillion.

SR 1159 by Ellis, Recognizing Jennifer Gooden for being presented by the Alpha Kappa Omega Chapter of Alpha Kappa Alpha Sorority, Incorporated, at its 13th Biennial Debutante Cotillion.

SR 1160 by Ellis, Recognizing Brandi Perry for being presented by the Alpha Kappa Omega Chapter of Alpha Kappa Alpha Sorority, Incorporated, at its 13th Biennial Debutante Cotillion.

SR 1161 by Ellis, Recognizing Dariel Johnson for being presented by the Alpha Kappa Omega Chapter of Alpha Kappa Alpha Sorority, Incorporated, at its 13th Biennial Debutante Cotillion.

SR 1162 by Ellis, Recognizing Taylor Dozier for being presented by the Alpha Kappa Omega Chapter of Alpha Kappa Alpha Sorority, Incorporated, at its 13th Biennial Debutante Cotillion.

SR 1163 by Ellis, Recognizing Veronica Forge for being presented by the Alpha Kappa Omega Chapter of Alpha Kappa Alpha Sorority, Incorporated, at its 13th Biennial Debutante Cotillion.

SR 1164 by Ellis, Recognizing Keia Broussard for being presented by the Alpha Kappa Omega Chapter of Alpha Kappa Alpha Sorority, Incorporated, at its 13th Biennial Debutante Cotillion.

SR 1165 by Ellis, Recognizing Alexandria Barnes for being presented by the Alpha Kappa Omega Chapter of Alpha Kappa Alpha Sorority, Incorporated, at its 13th Biennial Debutante Cotillion.

SR 1166 by Ellis, Recognizing Taylor Polidore for being presented by the Alpha Kappa Omega Chapter of Alpha Kappa Alpha Sorority, Incorporated, at its 13th Biennial Debutante Cotillion.

SR 1167 by Ellis, Recognizing Opal Pierce for being presented by the Alpha Kappa Omega Chapter of Alpha Kappa Alpha Sorority, Incorporated, at its 13th Biennial Debutante Cotillion.

SR 1168 by Ellis, Recognizing Victoria Dillard for being presented by the Alpha Kappa Omega Chapter of Alpha Kappa Alpha Sorority, Incorporated, at its 13th Biennial Debutante Cotillion.

SR 1169 by Ellis, Recognizing Ja'Leah Davis for being presented by the Alpha Kappa Omega Chapter of Alpha Kappa Alpha Sorority, Incorporated, at its 13th Biennial Debutante Cotillion.

SR 1170 by Ellis, Recognizing Kia Smith for being presented by the Alpha Kappa Omega Chapter of Alpha Kappa Alpha Sorority, Incorporated, at its 13th Biennial Debutante Cotillion.

SR 1171 by Watson, Recognizing Deborah Kay Bennight on the occasion of her retirement from the Office of the Comptroller of Public Accounts.

RECESS

On motion of Senator Whitmire, the Senate at 11:22 p.m. recessed until 9:00 a.m. tomorrow for the Local and Uncontested Calendar Session.

APPENDIX

COMMITTEE REPORTS

The following committee reports were received by the Secretary of the Senate in the order listed:

May 24, 2011

CRIMINAL JUSTICE — **CSHB 1199, CSHB 351**

ECONOMIC DEVELOPMENT — **CSHB 1560**

ADMINISTRATION — **HCR 84**

AGRICULTURE AND RURAL AFFAIRS — **HB 550**

INTERNATIONAL RELATIONS AND TRADE — **HB 737**

NATURAL RESOURCES — **CSHB 51, CSHB 125**

BILLS AND RESOLUTIONS ENROLLED

May 23, 2011

SB 19, SB 29, SB 32, SB 43, SB 54, SB 61, SB 77, SB 86, SB 116, SB 141, SB 149, SB 150, SB 162, SB 166, SB 187, SB 189, SB 192, SB 193, SB 226, SB 233, SB 234, SB 260, SB 266, SB 267, SB 290, SB 304, SB 335, SB 350, SB 367, SB 422, SB 449, SB 461, SB 471, SB 481, SB 482, SB 489, SB 494, SB 496, SB 512, SB 519, SB 530, SB 544, SB 554, SB 577, SB 578, SB 609, SB 626,

SB 627, SB 639, SB 650, SB 682, SB 690, SB 735, SB 743, SB 791, SB 792, SB 796, SB 799, SB 811, SB 851, SB 855, SB 864, SB 867, SB 886, SB 889, SB 898, SB 899, SB 900, SB 901, SB 957, SB 959, SB 966, SB 987, SB 1002, SB 1020, SB 1030, SB 1043, SB 1044, SB 1046, SB 1103, SB 1106, SB 1133, SB 1159, SB 1167, SB 1176, SB 1220, SB 1228, SB 1231, SB 1273, SB 1292, SB 1308, SB 1322, SB 1330, SB 1342, SB 1361, SB 1368, SB 1404, SB 1421, SB 1431, SB 1438, SB 1441, SB 1480, SB 1484, SB 1493, SB 1521, SB 1522, SB 1557, SB 1596, SB 1610, SB 1613, SB 1638, SB 1662, SB 1681, SB 1698, SB 1737, SB 1751, SB 1787, SB 1789, SB 1807, SB 1812, SB 1857, SB 1875, SB 1880, SB 1887, SB 1907, SB 1914, SB 1915, SB 1927, SB 1928, SCR 11, SCR 16, SCR 35, SCR 51, SJR 16, SR 1125, SR 1126, SR 1127, SR 1128, SR 1132, SR 1133, SR 1134, SR 1135, SR 1136, SR 1137, SR 1138, SR 1139, SR 1140, SR 1141, SR 1142, SR 1143

SENT TO GOVERNOR

May 24, 2011

SB 31, SB 36, SB 41, SB 58, SB 74, SB 80, SB 122, SB 131, SB 155, SB 219, SB 246, SB 247, SB 256, SB 258, SB 264, SB 310, SB 311, SB 315, SB 387, SB 400, SB 402, SB 419, SB 431, SB 432, SB 436, SB 514, SB 520, SB 540, SB 545, SB 558, SB 601, SB 794, SB 795, SB 813, SB 822, SB 860, SB 882, SB 896, SB 910, SB 953, SB 992, SB 1047, SB 1057, SB 1154, SB 1187, SB 1208, SB 1248, SB 1295, SB 1311, SB 1352, SB 1410, SB 1414, SB 1578, SB 1598, SB 1660, SB 1667, SB 1668, SB 1669, SB 1687, SB 1692, SB 1719, SB 1755, SB 1831, SCR 57

