

SENATE JOURNAL

EIGHTY-SECOND LEGISLATURE — REGULAR SESSION

AUSTIN, TEXAS

PROCEEDINGS

SEVENTY-FIRST DAY

(Sunday, May 29, 2011)

The Senate met at 1:17 p.m. pursuant to adjournment and was called to order by President Pro Tempore Ogden.

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

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

Bishop L. A. Wilkerson, Agapé Christian Ministries, Austin, offered the invocation as follows:

All mighty God, we pray that You bless these proceedings with Your presence. We pray for Your precious glory and heavenly power to fill this room. Please empower and anoint everyone here today with a supernatural ability to govern the affairs of this great State of Texas. Help them to meet the needs of all the people of this state. Glorious God, please do something special here today which will create a ripple effect that will be positively felt in years to come. God bless everyone here today to do Your will. We ask this in Your name. 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

Sunday, May 29, 2011 - 1

The Honorable President of the Senate
Senate Chamber
Austin, Texas

Mr. President:

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

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

HCR 168

Miller, Sid

Honoring John Cowan on the occasion of his retirement from the Texas Association of Dairymen.

HCR 176

Isaac

Instructing the enrolling clerk of the house to make corrections in H.B. No. 1517.

THE HOUSE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

HB 1 (97 Yeas, 53 Nays)

SB 747 (148 Yeas, 0 Nays, 2 Present, not voting)

SB 1534 (147 Yeas, 0 Nays, 2 Present, not voting)

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

HB 90 (146 Yeas, 2 Nays, 1 Present, not voting)

HB 1000 (148 Yeas, 0 Nays, 1 Present, not voting)

HB 2847 (147 Yeas, 0 Nays, 1 Present, not voting)

HB 2910 (148 Yeas, 0 Nays, 1 Present, not voting)

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

BILLS AND RESOLUTIONS SIGNED

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

SB 5, SB 49, SB 71, SB 78, SB 209, SB 222, SB 303, SB 321, SB 322, SB 391, SB 407, SB 480, SB 498, SB 502, SB 573, SB 594, SB 629, SB 663, SB 731, SB 736, SB 760, SB 809, SB 844, SB 859, SB 924, SB 942, SB 943, SB 978, SB 981, SB 988, SB 993, SB 1003, SB 1035, SB 1048, SB 1094, SB 1178, SB 1185, SB 1196, SB 1209, SB 1216, SB 1233, SB 1250, SB 1271, SB 1449, SB 1551, SB 1605, SB 1636, SB 1649, SB 1732, SB 1796, SB 1920, HB 1046, HB 1071, HB 1080, HB 1113, HB 1528, HB 1568, HB 1622, HB 1756, HB 1757, HB 1758, HB 1797, HB 1822, HB 1844, HB 2047, HB 2096, HB 2104, HB 2193, HB 2238, HB 2469, HB 2784, HB 2819, HB 2972, HB 3085, HB 3161, HB 3324, HB 3421, HB 3422, HCR 115, HCR 165.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 2608 ADOPTED

Senator Hinojosa called from the President's table the Conference Committee Report on **HB 2608**. The Conference Committee Report was filed with the Senate on Saturday, May 28, 2011.

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

SENATE RESOLUTION 1248

Senator Huffman offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 82nd Legislature, Regular Session, 2011, That Senate Rule 12.03 be suspended in part as provided by Senate Rule 12.08 to enable the conference committee appointed to resolve the differences on House Bill 2605 (the continuation and functions of the division of workers' compensation of the Texas Department of Insurance) to consider and take action on the following matters:

(1) Senate Rule 12.03(4) is suspended to permit the committee to add text not included in either the house or senate version of the bill to proposed Section 504.055, Labor Code, as added by Senate Floor Amendment No. 4 by Lucio, by adding Subsection (e) to read as follows:

(e) Except as otherwise provided by this section, a first responder is entitled to review of a medical dispute in the manner provided by Section 504.054.

Explanation: This addition is a cross-reference made necessary by the addition of proposed Section 504.054, Labor Code, as added by the senate committee substitute.

(2) Senate Rule 12.03(2) is suspended to permit the committee to omit text not in disagreement by omitting proposed Section 504.055, Labor Code, that reads as follows:

Sec. 504.055. FIRST RESPONDER MEDICAL DISPUTES; CONTESTED CASE HEARING AND JUDICIAL REVIEW. (a) In this section, "first responder" has the meaning assigned by Section 504.054.

(b) A first responder whose medical dispute remains unresolved after a review by an independent review organization is entitled to a contested case hearing. The independent review organization's decision is binding during the pendency of a dispute. A hearing under this subsection shall be conducted by the division in the same manner as a hearing conducted under Section 413.0311.

(c) A first responder who has exhausted all administrative remedies under Subsection (b) and is aggrieved by a final decision of the division may seek judicial review of the decision. Judicial review under this subsection shall be conducted in the manner provided by Section 413.0311(d).

Explanation: The omission is necessary to prevent an inconsistency with proposed Section 504.054, Labor Code, as added by the senate committee substitute.

(3) Senate Rule 12.03(1) is suspended to permit the committee to change text not in disagreement in the proposed section containing the transition language added by Senate Floor Amendment No. 4 by Lucio to read as follows:

Section 504.055, Labor Code, as added by this Act, applies only to a claim for workers' compensation benefits based on a compensable injury that occurs on or after the effective date of this Act. A claim based on a compensable injury that occurs before that date is governed by the law in effect on the date the compensable injury occurred, and the former law is continued in effect for that purpose.

Explanation: This change is necessary to correct a cross-reference.

SR 1248 was read and was adopted by the following vote: Yeas 31, Nays 0.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 2605 ADOPTED**

Senator Huffman called from the President's table the Conference Committee Report on **HB 2605**. The Conference Committee Report was filed with the Senate on Saturday, May 28, 2011.

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

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 1664 ADOPTED**

Senator Duncan called from the President's table the Conference Committee Report on **SB 1664**. The Conference Committee Report was filed with the Senate on Friday, May 27, 2011.

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

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 2817 ADOPTED**

Senator Duncan called from the President's table the Conference Committee Report on **HB 2817**. The Conference Committee Report was filed with the Senate on Saturday, May 28, 2011.

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

SENATE RESOLUTION 1252

Senator Wentworth offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 82nd Legislature, Regular Session, 2011, That Senate Rule 12.03 be suspended in part as provided by Senate Rule 12.08 to enable the conference committee appointed to resolve the differences on House Bill 2327 (establishment and operation of a motor-bus-only lane pilot program in certain counties) to consider and take action on the following matter:

Senate Rule 12.03(3) is suspended to permit the committee to add text on a matter which is not in disagreement by adding text in SECTION 1 of the bill, in added Section 455.006(a), Transportation Code, to read as follows:

(a) The department, in consultation with the Department of Public Safety and in conjunction with and with the elective participation of the appropriate metropolitan rapid transit authorities, county transportation authorities, municipal transit departments, and regional transportation authorities and the municipalities served by those mass transit entities, shall establish and operate a motor-bus-only lane pilot program for highways in Bexar, El Paso, Tarrant, and Travis Counties that are part of the state highway system and have shoulders of sufficient width and structural integrity.

Explanation: This change is necessary to clarify that a mass transit entity is not required to participate in the establishment and operation of the motor-bus-only lane pilot program.

SR 1252 was read and was adopted by the following vote: Yeas 30, Nays 1.

Nays: Nichols.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 2327 ADOPTED**

Senator Wentworth called from the President's table the Conference Committee Report on **HB 2327**. The Conference Committee Report was filed with the Senate on Saturday, May 28, 2011.

On motion of Senator Wentworth, the Conference Committee Report was adopted by the following vote: Yeas 22, Nays 9.

Yeas: Carona, Davis, Deuell, Duncan, Ellis, Eltife, Estes, Gallegos, Hegar, Hinojosa, Lucio, Nelson, Rodriguez, Seliger, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Birdwell, Fraser, Harris, Huffman, Jackson, Nichols, Ogden, Patrick, Shapiro.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 3109 ADOPTED**

Senator Seliger called from the President's table the Conference Committee Report on **HB 3109**. The Conference Committee Report was filed with the Senate on Saturday, May 28, 2011.

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

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 2226 ADOPTED**

Senator Carona called from the President's table the Conference Committee Report on **HB 2226**. The Conference Committee Report was filed with the Senate on Friday, May 27, 2011.

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

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 1543 ADOPTED**

Senator Wentworth called from the President's table the Conference Committee Report on **SB 1543**. The Conference Committee Report was filed with the Senate on Saturday, May 28, 2011.

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

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

Nays: Birdwell, Nelson, Patrick, Williams.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 300 ADOPTED**

Senator Nelson called from the President's table the Conference Committee Report on **HB 300**. The Conference Committee Report was filed with the Senate on Saturday, May 28, 2011.

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

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 2357 ADOPTED**

Senator Williams called from the President's table the Conference Committee Report on **HB 2357**. The Conference Committee Report was filed with the Senate on Saturday, May 28, 2011.

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

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 2490 ADOPTED**

Senator Carona called from the President's table the Conference Committee Report on **HB 2490**. The Conference Committee Report was filed with the Senate on Friday, May 27, 2011.

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

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 293 ADOPTED**

Senator Watson called from the President's table the Conference Committee Report on **SB 293**. The Conference Committee Report was filed with the Senate on Saturday, May 28, 2011.

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

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 2380 ADOPTED**

Senator Shapiro called from the President's table the Conference Committee Report on **HB 2380**. The Conference Committee Report was filed with the Senate on Saturday, May 28, 2011.

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

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 28 ADOPTED**

Senator Zaffirini called from the President's table the Conference Committee Report on **SB 28**. The Conference Committee Report was filed with the Senate on Tuesday, May 24, 2011.

On motion of Senator Zaffirini, the Conference Committee Report was adopted by the following vote: Yeas 28, Nays 3.

Yeas: Birdwell, Carona, Deuell, Duncan, 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: Davis, Ellis, Patrick.

SENATE RESOLUTION 1256

Senator Jackson offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 82nd Legislature, Regular Session, 2011, That Senate Rule 12.03 be suspended in part as provided by Senate Rule 12.08 to enable the conference committee appointed to resolve the differences on House Bill 2457 (the Texas Enterprise Fund and the Texas emerging technology fund) to consider and take action on the following matters:

(1) Senate Rules 12.03(1) and (2) are suspended to permit the committee to change and omit text not in disagreement in SECTION 1 of the bill, in added Section 481.078(h-1), Government Code, to read as follows:

(h-1) At least 14 days before the date the governor intends to amend a grant agreement, the governor shall notify and provide a copy of the proposed amendment to the speaker of the house of representatives and the lieutenant governor.

Explanation: This change is necessary to remove the requirement that the governor notify and provide a copy of a proposed amendment to a grant agreement to the presiding officers of the standing committees of both houses of the legislature with primary jurisdiction over economic development.

(2) Senate Rule 12.03(4) is suspended to permit the committee to add text on a matter which is not included in either the house or senate version of the bill, in SECTION 6 of the bill, by adding the following subsections in added Section 490.0521, Government Code, to read as follows:

(b) All information obtained and maintained pursuant to Subsection (a), including information derived from the financial statements, is confidential and is not subject to disclosure under Chapter 552, Government Code.

(c) The governor, on request or in the normal course of official business, shall provide information that is confidential under Subsection (b) to the Texas State Auditor's Office.

(d) This section does not affect release of information for legislative purposes pursuant to Section 552.008, Government Code.

Explanation: This change is necessary to ensure that information disclosed in the verified financial statement required under Section 490.0521, Government Code, is considered confidential and not subject to disclosure under Chapter 552, Government Code, and will be, on request or in the normal course of official business, provided by the governor to the Texas State Auditor's Office. In addition, the change is necessary to clarify that the section does not affect the release of information for legislative purposes.

SR 1256 was read and was adopted by the following vote: Yeas 31, Nays 0.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 2457 ADOPTED**

Senator Jackson called from the President's table the Conference Committee Report on **HB 2457**. The Conference Committee Report was filed with the Senate on Friday, May 27, 2011.

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

Nays: Ogden.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 3025 ADOPTED**

Senator Zaffirini called from the President's table the Conference Committee Report on **HB 3025**. The Conference Committee Report was filed with the Senate on Saturday, May 28, 2011.

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

(President in Chair)

SENATE RESOLUTION 1249

Senator Van de Putte offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 82nd Legislature, Regular Session, 2011, That Senate Rule 12.03 be suspended in part as provided by Senate Rule 12.08 to enable the conference committee appointed to resolve the differences on Senate Bill 100 (adoption of certain voting procedures and certain elections, including provisions necessary to implement the federal Military and Overseas Voter Empowerment Act, deadlines for declaration of candidacy and dates for certain elections, and terms of certain election officials) to consider and take action on the following matters:

(1) Senate Rule 12.03(3) is suspended to permit the committee to add text on a matter not in disagreement in proposed SECTION 5 of the bill, added Section 41.0052(c), Election Code, and in proposed SECTION 44 of the bill, amended Section 11.059(e), Education Code:

(c) . . . The change contained in the resolution supersedes a city charter provision . . . that requires the terms of members of the governing body to be staggered.

(e) . . . The resolution must provide for staggered terms [~~a term~~] of either three or four years and specify the manner in which the transition from the length of the former term to the modified term is made. . . .

Explanation: The changes are necessary to allow for a home-rule municipal charter provision that requires the use of staggered terms to elect members of the governing body of the municipality to be superseded by a resolution, and to require staggered terms for the trustees of the board of trustees of an independent school district.

(2) Senate Rule 12.03(4) is suspended to permit the committee to add text on a matter which is not included in either the house or senate version of the bill in proposed SECTION 51 of the bill:

SECTION 51. The following are repealed:

(1) Section 41.0053, Election Code;

...

Explanation: The change is necessary to repeal the required use of an election date by certain political subdivisions.

SR 1249 was read and was adopted by the following vote: Yeas 31, Nays 0.

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 100 ADOPTED**

Senator Van de Putte called from the President's table the Conference Committee Report on **SB 100**. The Conference Committee Report was filed with the Senate on Saturday, May 28, 2011.

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

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 1103 ADOPTED**

Senator Ellis called from the President's table the Conference Committee Report on **HB 1103**. The Conference Committee Report was filed with the Senate on Saturday, May 28, 2011.

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

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

Nays: Deuell, Jackson, Nichols, Patrick.

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 89 ADOPTED**

Senator Lucio called from the President's table the Conference Committee Report on **SB 89**. The Conference Committee Report was filed with the Senate on Saturday, May 28, 2011.

On motion of Senator Lucio, the Conference Committee Report was adopted by the following vote: Yeas 24, Nays 7.

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

Nays: Birdwell, Fraser, Harris, Hegar, Nelson, Ogden, Patrick.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 2900 ADOPTED**

Senator Harris called from the President's table the Conference Committee Report on **HB 2900**. The Conference Committee Report was filed with the Senate on Saturday, May 28, 2011.

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

Nays: Nelson.

SENATE RESOLUTION 1257

Senator Lucio offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 82nd Legislature, Regular Session, 2011, That Senate Rule 12.03 be suspended in part as provided by Senate Rule 12.08 to enable the conference committee appointed to resolve the differences on House Bill 213 (certain loans secured by a lien on residential real property and other transactions involving residential real property; providing civil penalties) to consider and take action on the following matter:

Senate Rule 12.03(2) is suspended to permit the committee to omit text not in disagreement in SECTION 1 of the bill, from added Chapter 397, Finance Code, that reads as follows:

Sec. 397.102. ACTION BY DEBTOR. In addition to any other legal and equitable remedy available, a debtor injured by a violation of this chapter may bring an action for recovery of actual damages, including reasonable attorney's fees.

Sec. 397.102. ACTION BY BORROWER. In addition to any other legal and equitable remedy available, a borrower injured by a violation of this chapter may bring an action:

...

(2) to recover:

(A) actual damages, including reasonable attorney's fees;

Explanation: The omission of the text is necessary to remove the authorization of a private cause of action under added Chapter 397, Finance Code.

SR 1257 was read and was adopted by the following vote: Yeas 31, Nays 0.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 213 ADOPTED**

Senator Lucio called from the President's table the Conference Committee Report on **HB 213**. The Conference Committee Report was filed with the Senate on Saturday, May 28, 2011.

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

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

Senator Nichols called from the President's table the Conference Committee Report on **SB 635**. The Conference Committee Report was filed with the Senate on Saturday, May 28, 2011.

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

SENATE RESOLUTION 1247

Senator Ellis offered the following resolution:

SR 1247, Suspending limitations on conference committee jurisdiction, H.B. No. 3275.

The resolution was read.

Senator Ellis postponed further consideration of the resolution to a time certain of 6:00 p.m. today.

Question — Shall **SR 1247** be adopted?

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 1010 ADOPTED**

Senator Huffman called from the President's table the Conference Committee Report on **SB 1010**. The corrected Conference Committee Report was filed with the Senate on Saturday, May 28, 2011.

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

BILLS SIGNED

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

SB 76, SB 81, SB 144, SB 156, SB 197, SB 221, SB 223, SB 249, SB 263, SB 313, SB 332, SB 377, SB 385, SB 425, SB 462, SB 469, SB 563, SB 647, SB 767, SB 773, SB 776, SB 803, SB 875, SB 932, SB 1068, SB 1170, SB 1179, SB 1234, SB 1285, SB 1286, SB 1338, SB 1413, SB 1416, SB 1422, SB 1489, SB 1546, SB 1616, SB 1620, SB 1733, SB 1736, SB 1760, SB 1810, SB 1909.

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 472 ADOPTED**

Senator West called from the President's table the Conference Committee Report on **SB 472**. The Conference Committee Report was filed with the Senate on Saturday, May 28, 2011.

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

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 516 ADOPTED**

Senator Patrick called from the President's table the Conference Committee Report on **SB 516**. The Conference Committee Report was filed with the Senate on Saturday, May 28, 2011.

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

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 1788 ADOPTED**

Senator Patrick called from the President's table the Conference Committee Report on **SB 1788**. The Conference Committee Report was filed with the Senate on Saturday, May 28, 2011.

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

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 242 ADOPTED**

Senator Hegar called from the President's table the Conference Committee Report on **HB 242**. The Conference Committee Report was filed with the Senate on Saturday, May 28, 2011.

On motion of Senator Hegar, the Conference Committee Report was adopted by the following vote: Yeas 28, Nays 3.

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

Nays: Birdwell, Nelson, Patrick.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 414 ADOPTED**

Senator Hegar called from the President's table the Conference Committee Report on **HB 414**. The Conference Committee Report was filed with the Senate on Saturday, May 28, 2011.

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

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 542 ADOPTED**

Senator Hegar called from the President's table the Conference Committee Report on **SB 542**. The Conference Committee Report was filed with the Senate on Saturday, May 28, 2011.

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

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

Senator Nelson called from the President's table the Conference Committee Report on **SB 23**. The Conference Committee Report was filed with the Senate on Saturday, May 28, 2011.

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

Nays: Ellis.

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 1130 ADOPTED**

Senator Hegar called from the President's table the Conference Committee Report on **SB 1130**. The Conference Committee Report was filed with the Senate on Saturday, May 28, 2011.

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

**CONFERENCE COMMITTEE ON
SENATE BILL 408 DISCHARGED**

Senator Estes moved to discharge the Senate conferees and to concur in the House amendments to **SB 408**.

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

Nays: Ogden.

REMARKS ORDERED PRINTED

On motion of Senator Estes and by unanimous consent, his remarks regarding **SB 408** were ordered reduced to writing and printed in the *Senate Journal* as follows:

This bill pertains to the John Graves Scenic Riverway, a section of the Brazos River located wholly inside Senate District 30. Members, Representative Keffer added a House amendment to add a penalty to a provision in the bill that banned the use of airboats on the John Graves Scenic Riverway. Under the Keffer amendment, a violation of the prohibition of airboats on the John Graves Scenic Riverway is a Class C misdemeanor. The House also specified that any peace officer, including a law enforcement officer commissioned by the Parks and Wildlife Commission, can enforce the prohibition. The conference committee attempted to renegotiate that a violation of the provisions of this bill is a Class C misdemeanor if the violation occurred only in a specific shorter section of the John Graves Scenic Riverway between the Morris Sheppard Dam and Hwy. 180 and not the entire stretch of the scenic riverway. Regrettably, the conferees could not agree. Therefore, I move to concur with House amendments on **SB 408**.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

Sunday, May 29, 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 ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

HB 1103 (132 Yeas, 12 Nays, 1 Present, not voting)

HB 1286 (116 Yeas, 30 Nays, 2 Present, not voting)

HB 2605 (147 Yeas, 0 Nays, 2 Present, not voting)

SB 341 (118 Yeas, 20 Nays, 4 Present, not voting)

SB 542 (147 Yeas, 0 Nays, 2 Present, not voting)

SB 652 (145 Yeas, 1 Nays, 2 Present, not voting)

SB 1331 (142 Yeas, 0 Nays, 1 Present, not voting)

SB 1588 (132 Yeas, 13 Nays, 1 Present, not voting)

SB 1600 (134 Yeas, 0 Nays, 1 Present, not voting)

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 2770 ADOPTED**

Senator Williams called from the President's table the Conference Committee Report on **HB 2770**. The Conference Committee Report was filed with the Senate on Saturday, May 28, 2011.

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

HOUSE CONCURRENT RESOLUTION 176

The President laid before the Senate the following resolution:

WHEREAS, House Bill No. 1517 has been adopted by the house of representatives and the senate; 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 house of representatives be instructed to make the following correction:

In SECTION 1 of the bill, in amended Section 542.402(e), Transportation Code, between "municipality" and "shall", insert "or county".

HEGAR

HCR 176 was read.

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

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 753 ADOPTED

Senator Zaffirini called from the President's table the Conference Committee Report on **HB 753**. The Conference Committee Report was filed with the Senate on Saturday, May 28, 2011.

On motion of Senator Zaffirini, the Conference Committee Report was adopted by the following vote: Yeas 29, Nays 2.

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

Nays: Ogden, Williams.

SENATE RESOLUTION 1254

Senator Rodriguez offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 82nd Legislature, Regular Session, 2011, That Senate Rule 12.03 be suspended in part as provided by Senate Rule 12.08 to enable the conference committee appointed to resolve the differences on Senate Bill 1198 (decedents' estates) to consider and take action on the following matters:

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

SECTION 1.08. Section 34A, Texas Probate Code, is amended to read as follows:

Sec. 34A. ATTORNEYS AD LITEM. (a) Except as provided by Section 53(c) of this code, the judge of a probate court may appoint an attorney ad litem in any probate proceeding to represent the interests of:

(1) a person having a legal disability;

(2) [;] a nonresident;

(3) [;] an unborn or unascertained person;

(4) [~~;~~] an unknown or missing heir; or

(5) an unknown or missing person entitled to property deposited in an account in the court's registry under Section 408(b) of this code [in any probate proceeding].

(b) Subject to Subsection (c) of this section, an ~~[Each]~~ attorney ad litem appointed under this section is entitled to reasonable compensation for services in the amount set by the court. The court shall:

(1) tax the compensation [and to be taxed] as costs in the probate proceeding; or

(2) for an attorney ad litem appointed to represent the interests of an unknown or missing person described by Subsection (a)(5) of this section, order that the compensation be paid from money in the account described by that subdivision.

(c) The court order appointing an attorney ad litem to represent the interests of an unknown or missing person described by Subsection (a)(5) of this section must require the attorney ad litem to conduct a search for the person. Compensation paid under Subsection (b) of this section to the attorney ad litem may not exceed 10 percent of the amount on deposit in the account described by Subsection (a)(5) of this section on the date:

(1) the attorney ad litem reports to the court the location of the previously unknown or missing person; or

(2) the money in the account is paid to the comptroller as provided by Section 427 of this code.

SECTION 1.13. Subsections (a) and (b), Section 53C, Texas Probate Code, are amended to read as follows:

(a) This section applies in a proceeding to declare heirship of a decedent only with respect to an individual who~~[-~~

~~[(1) petitions the court for a determination of right of inheritance as authorized by Section 42(b) of this code; and~~

~~[(2)] claims to be a biological child of the decedent[-, but with respect to whom a parent-child relationship with the decedent was not established as provided by Section 160.201, Family Code,] or [who] claims inheritance through a biological child of the decedent[-, if a parent-child relationship between the individual through whom the inheritance is claimed and the decedent was not established as provided by Section 160.201, Family Code].~~

(b) The presumption under Section 160.505, Family Code, that applies in establishing a parent-child relationship also applies in determining heirship in the probate court using the results of genetic testing ordered with respect to an individual described by Subsection (a) of this section, and the presumption may be rebutted in the same manner provided by Section 160.505, Family Code. [Unless the results of genetic testing of another individual who is an heir of the decedent are admitted as rebuttal evidence, the court shall find that the individual described by Subsection (a) of this section is an heir of the decedent if the results of genetic testing ordered under Section 53A of this chapter identify a tested individual who is an heir of the decedent as the ancestor of the individual described by Subsection (a) of this section.]

SECTION 1.17. Section 77, Texas Probate Code, is amended to read as follows:

Sec. 77. ORDER OF PERSONS QUALIFIED TO SERVE. Letters testamentary or of administration shall be granted to persons who are qualified to act, in the following order:

(a) To the person named as executor in the will of the deceased.

(b) To the surviving husband or wife.

- (c) To the principal devisee or legatee of the testator.
- (d) To any devisee or legatee of the testator.
- (e) To the next of kin of the deceased, the nearest in order of descent first, and so on, and next of kin includes a person and his descendants who legally adopted the deceased or who have been legally adopted by the deceased.
- (f) To a creditor of the deceased.
- (g) To any person of good character residing in the county who applies therefor.
- (h) To any other person not disqualified under the following section ~~Section~~.

When persons ~~applicants~~ are equally entitled, letters shall be granted to the person ~~applicant~~ who, in the judgment of the court, is most likely to administer the estate advantageously, or letters ~~they~~ may be granted to ~~any~~ two or more of those persons ~~such applicants~~.

SECTION 1.32. Part 1, Chapter VIII, Texas Probate Code, is amended by adding Section 254 to read as follows:

Sec. 254. PENALTY FOR FAILURE TO TIMELY FILE INVENTORY, APPRAISEMENT, AND LIST OF CLAIMS OR AFFIDAVIT IN LIEU OF. (a) This section applies only to a personal representative, including an independent executor or administrator, who does not file an inventory, appraisal, and list of claims or affidavit in lieu of the inventory, appraisal, and list of claims, as applicable, within the period prescribed by Section 250 of this code or any extension granted by the court.

(b) Any person interested in the estate on written complaint, or the court on the court's own motion, may have a personal representative to whom this section applies cited to file the inventory, appraisal, and list of claims or affidavit in lieu of the inventory, appraisal, and list of claims, as applicable, and show cause for the failure to timely file.

(c) If the personal representative does not file the inventory, appraisal, and list of claims or affidavit in lieu of the inventory, appraisal, and list of claims, as applicable, after being cited or does not show good cause for the failure to timely file, the court on hearing may fine the representative in an amount not to exceed \$1,000.

(d) The personal representative and the representative's sureties, if any, are liable for any fine imposed under this section and for all damages and costs sustained by the representative's failure. The fine, damages, and costs may be recovered in any court of competent jurisdiction.

SECTION 1.40. Section 407, Texas Probate Code, is amended to read as follows:

Sec. 407. CITATION AND NOTICE UPON PRESENTATION OF ACCOUNT FOR FINAL SETTLEMENT. Upon the filing of an account for final settlement by temporary or permanent personal representatives of the estates of decedents, citation shall contain a statement that such final account has been filed, the time and place when it will be considered by the court, and a statement requiring the person or persons cited to appear and contest the same if they see proper. Such citation shall be issued by the county clerk to the persons and in the manner set out below.

1. Citation [~~In case of the estates of deceased persons, notice~~] shall be given [~~by the personal representative~~] to each heir or beneficiary of the decedent by certified mail, return receipt requested, unless another method of service [~~type of notice~~] is directed by the court by written order. The citation [~~notice~~] must include a copy of the account for final settlement.

2. If the court deems further additional notice necessary, it shall require the same by written order. In its discretion, the court may allow the waiver of citation [~~notice~~] of an account for final settlement in a proceeding concerning a decedent's estate.

SECTION 1.41. Subsections (b), (c), and (d), Section 408, Texas Probate Code, are amended to read as follows:

(b) Distribution of Remaining Property. Upon final settlement of an estate, if there be any of such estate remaining in the hands of the personal representative, the court shall order that a partition and distribution be made among the persons entitled to receive such estate. The court shall order the representative to deposit in an account in the court's registry any remaining estate property that is money and to which a person who is unknown or missing is entitled. In addition, the court shall order the representative to sell, on terms the court determines are best, remaining estate property that is not money and to which a person who is unknown or missing is entitled. The court shall order the representative to deposit the sale proceeds in an account in the court's registry. The court shall hold money deposited in an account under this subsection until the court renders:

(1) an order requiring money in the account to be paid to the previously unknown or missing person who is entitled to the money; or

(2) another order regarding the disposition of the money.

(c) Discharge of Representative When No Property Remains. If, upon such settlement, there be none of the estate remaining in the hands of the representative, the representative [~~he~~] shall be discharged from the representative's [~~his~~] trust and the estate ordered closed.

(d) Discharge When Estate Fully Administered. Whenever the representative of an estate has fully administered the same in accordance with this code [~~Code~~] and the orders of the court, and the representative's [~~his~~] final account has been approved, and the representative [~~he~~] has delivered all of said estate remaining in the representative's [~~his~~] hands to the person or persons entitled to receive the same, it shall be the duty of the court to enter an order discharging such representative from the representative's [~~his~~] trust, and declaring the estate closed.

SECTION 1.42. Section 427, Texas Probate Code, is amended to read as follows:

Sec. 427. WHEN ESTATES TO BE PAID INTO STATE TREASURY. If any person entitled to a portion of an estate, except a resident minor without a guardian, does [~~shall~~] not demand the person's [~~his~~] portion, including any portion deposited in an account in the court's registry under Section 408(b) of this code, from the executor or administrator within six months after an order of court approving the report of commissioners of partition, or within six months after the settlement of the final account of an executor or administrator, as the case may be, the court by written order shall require the executor or administrator to pay so much of said portion as is in

money to the comptroller; and such portion as is in other property the court ~~he~~ shall order the executor or administrator to sell on such terms as the court thinks best, and, when the proceeds of such sale are collected, the court shall order the same to be paid to the comptroller, in all such cases allowing the executor or administrator reasonable compensation for the executor's or administrator's ~~his~~ services. A suit to recover proceeds of the sale is governed by Section 433 of this code ~~Code~~.

SECTION 2.06. Section 53.104, Estates Code, as effective January 1, 2014, is amended to read as follows:

Sec. 53.104. APPOINTMENT OF ATTORNEYS AD LITEM. (a) Except as provided by Section 202.009(b), the judge of a probate court may appoint an attorney ad litem in any probate proceeding to represent the interests of:

- (1) a person who has a legal disability;
- (2) a nonresident;
- (3) an unborn or unascertained person; ~~or~~
- (4) an unknown or missing heir; or

(5) an unknown or missing person entitled to property deposited in an account in the court's registry under Section 362.011(b).

(b) Subject to Subsection (c), an ~~An~~ attorney ad litem appointed under this section is entitled to reasonable compensation for services provided in the amount set by the court. The court shall:

(1) tax the compensation ~~to be taxed~~ as costs in the probate proceeding; or
(2) for an attorney ad litem appointed to represent the interests of an unknown or missing person described by Subsection (a)(5), order that the compensation be paid from money in the account described by that subdivision.

(c) The court order appointing an attorney ad litem to represent the interests of an unknown or missing person described by Subsection (a)(5) must require the attorney ad litem to conduct a search for the person. Compensation paid under Subsection (b) to the attorney ad litem may not exceed 10 percent of the amount on deposit in the account described by Subsection (a)(5) on the date:

(1) the attorney ad litem reports to the court the location of the previously unknown or missing person; or

(2) the money in the account is paid to the comptroller as provided by Section 551.001.

SECTION 2.21. Subchapter A, Chapter 202, Estates Code, as effective January 1, 2014, is amended by adding Section 202.0025 to read as follows:

Sec. 202.0025. ACTION BROUGHT AFTER DECEDENT'S DEATH. Notwithstanding Section 16.051, Civil Practice and Remedies Code, a proceeding to declare heirship of a decedent may be brought at any time after the decedent's death.

SECTION 2.24. Sections 204.151 and 204.152, Estates Code, as effective January 1, 2014, are amended to read as follows:

Sec. 204.151. APPLICABILITY OF SUBCHAPTER. This subchapter applies in a proceeding to declare heirship of a decedent only with respect to an individual who~~±~~

~~[(1) petitions the court for a determination of right of inheritance as authorized by Section 201.052(e); and~~

~~[(2) claims~~±~~~~

~~[(A)] to be a biological child of the decedent or claims~~, ~~but with respect to whom a parent-child relationship with the decedent was not established as provided by Section 160.201, Family Code; or~~

~~[(B)] to inherit through a biological child of the decedent~~, ~~if a parent-child relationship between the individual through whom the inheritance is claimed and the decedent was not established as provided by Section 160.201, Family Code~~.

Sec. 204.152. PRESUMPTION; [REQUIRED FINDINGS IN ABSENCE OF] REBUTTAL [EVIDENCE]. The presumption under Section 160.505, Family Code, that applies in establishing a parent-child relationship also applies in determining heirship in the probate court using the results of genetic testing ordered with respect to an individual described by Section 204.151, and the presumption may be rebutted in the same manner provided by Section 160.505, Family Code. ~~[Unless the results of genetic testing of another individual who is an heir of the decedent who is the subject of a proceeding to declare heirship to which this subchapter applies are admitted as rebuttal evidence, the court shall find that the individual described by Section 204.151:~~

~~[(1) is an heir of the decedent, if the results of genetic testing ordered under Subchapter B identify a tested individual who is an heir of the decedent as the ancestor of the individual described by Section 204.151; or~~

~~[(2) is not an heir of the decedent, if the results of genetic testing ordered under Subchapter B exclude a tested individual who is an heir of the decedent as the ancestor of the individual described by Section 204.151.]~~

SECTION 2.37. Subsection (c), Section 304.001, Estates Code, as effective January 1, 2014, is amended to read as follows:

(c) If persons ~~[applicants for letters testamentary or of administration]~~ are equally entitled to letters testamentary or of administration ~~[the letters]~~, the court:

(1) shall grant the letters to the person ~~[applicant]~~ who, in the judgment of the court, is most likely to administer the estate advantageously; or

(2) may grant the letters to two or more of those persons ~~[applicants]~~.

SECTION 2.57. Section 362.005, Estates Code, as effective January 1, 2014, is amended to read as follows:

Sec. 362.005. CITATION AND NOTICE ON PRESENTATION OF ACCOUNT. (a) On the presentation of an account for final settlement by a temporary or permanent personal representative, the county clerk shall issue citation to the persons and in the manner provided by Subsection (b) ~~[Subsections (c) and (d)]~~.

(b) Citation issued under Subsection (a) must:

(1) contain:

(A) [(1)] a statement that an account for final settlement has been presented;

(B) [(2)] the time and place the court will consider the account; ~~and~~

(C) [(3)] a statement requiring the person cited to appear and contest the account, if the person wishes to contest the account; and

(D) a copy of the account for final settlement; and

(2) be given[-

~~[(c) The personal representative shall give notice]~~ to each heir or beneficiary of the decedent by certified mail, return receipt requested, unless the court by written order directs another method of service ~~[type of notice]~~ to be given~~[-The notice must include a copy of the account for final settlement].~~

~~(c)~~ ~~(d)~~ The court by written order shall require additional notice if the court considers the additional notice necessary.

~~(d)~~ ~~(e)~~ The court may allow the waiver of citation ~~[notice]~~ of an account for final settlement in a proceeding concerning a decedent's estate.

SECTION 2.58. Section 362.011, Estates Code, as effective January 1, 2014, is amended to read as follows:

Sec. 362.011. PARTITION AND DISTRIBUTION OF ESTATE; DEPOSIT IN COURT'S REGISTRY. (a) If, on final settlement of an estate, any of the estate remains in the personal representative's possession, the court shall order that a partition and distribution be made among the persons entitled to receive that part of the estate.

(b) The court shall order the personal representative to deposit in an account in the court's registry any remaining estate property that is money and to which a person who is unknown or missing is entitled. In addition, the court shall order the representative to sell, on terms the court determines are best, remaining estate property that is not money and to which a person who is unknown or missing is entitled. The court shall order the representative to deposit the sale proceeds in an account in the court's registry. The court shall hold money deposited in an account under this subsection until the court renders:

(1) an order requiring money in the account to be paid to the previously unknown or missing person who is entitled to the money; or

(2) another order regarding the disposition of the money.

SECTION 2.60. Subsection (a), Section 551.001, Estates Code, as effective January 1, 2014, is amended to read as follows:

(a) The court, by written order, shall require the executor or administrator of an estate to pay to the comptroller as provided by this subchapter the share of that estate of a person entitled to that share who does not demand the share, including any portion deposited in an account in the court's registry under Section 362.011(b), from the executor or administrator within six months after the date of, as applicable:

(1) a court order approving the report of the commissioners of partition made under Section 360.154; or

(2) the settlement of the final account of the executor or administrator.

Explanation: The addition is necessary to add provisions relating to attorneys ad litem, proceedings to declare heirship, granting of letters testamentary or of administration, filing of inventories, appraisements, and lists of claims, citation and notice on presentation of accounts for final settlement, distribution of remaining estate property and discharge of representatives on final settlement of estates, and estates to be paid into the state treasury.

(2) Senate Rules 12.03(1) and (4) are suspended to permit the committee to change text which is not in disagreement and to add text on a matter which is not included in either the house or senate version of the bill in proposed SECTION 1.11 of the bill, in amended Section 48, Texas Probate Code, to read as follows:

SECTION 1.11. Section 48, Texas Probate Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

...
(d) Notwithstanding Section 16.051, Civil Practice and Remedies Code, a proceeding to declare heirship of a decedent may be brought at any time after the decedent's death.

Explanation: The change is necessary to specify when a proceeding to declare heirship may be brought.

(3) Senate Rules 12.03(1), (3), and (4) are suspended to permit the committee to change text which is not in disagreement, to add text on a matter which is not in disagreement, and to add text on a matter which is not included in either the house or senate version of the bill in proposed SECTION 1.12 of the bill, in amended Subsection (a), Section 49, Texas Probate Code, to read as follows:

SECTION 1.12. Subsection (a), Section 49, Texas Probate Code, is amended to read as follows:

(a) Such proceedings may be instituted and maintained under a circumstance specified in Section 48(a) of this code ~~[in any of the instances enumerated above]~~ by the qualified personal representative of the estate of such decedent, by a party seeking the appointment of an independent administrator under Section 145 of this code, by the trustee of a trust holding assets for the benefit of the decedent, by any person or persons claiming to be a secured or unsecured creditor or the owner of the whole or a part of the estate of such decedent, or by the guardian of the estate of a ward, if the proceedings are instituted and maintained in the probate court in which the proceedings for the guardianship of the estate were pending at the time of the death of the ward. In such a case an application shall be filed in a proper court stating the following information:

- (1) the name of the decedent and the time and place of death;
 - (2) the names and residences of the decedent's heirs, the relationship of each heir to the decedent, and the true interest of the applicant and each of the heirs in the estate of the decedent or in the trust, as applicable;
 - (3) all the material facts and circumstances within the knowledge and information of the applicant that might reasonably tend to show the time or place of death or the names or residences of all heirs, if the time or place of death or the names or residences of all the heirs are not definitely known to the applicant;
 - (4) a statement that all children born to or adopted by the decedent have been listed;
 - (5) a statement that each marriage of the decedent has been listed with the date of the marriage, the name of the spouse, and if the marriage was terminated, the date and place of termination, and other facts to show whether a spouse has had an interest in the property of the decedent;
 - (6) whether the decedent died testate and if so, what disposition has been made of the will;
 - (7) a general description of all the real and personal property belonging to the estate of the decedent or held in trust for the benefit of the decedent, as applicable;
- and

(8) an explanation for the omission of any of the foregoing information that is omitted from the application.

Explanation: The change is necessary to authorize persons claiming to be unsecured creditors to institute proceedings to declare heirship.

(4) Senate Rules 12.03(1), (2), and (4) are suspended to permit the committee to change text which is not in disagreement, omit text which is not in disagreement, and add text on a matter which is not included in either the house or senate version of the bill in proposed SECTION 1.28 of the bill, in amended Section 149C, Texas Probate Code, to read as follows:

SECTION 1.28. Section 149C, Texas Probate Code, is amended by amending Subsection (a) and adding Subsections (a-1) and (a-2) to read as follows:

(a) The ~~[county]~~ court, ~~[as that term is defined by Section 3 of this code,]~~ on its own motion or on motion of any interested person, after the independent executor has been cited by personal service to answer at a time and place fixed in the notice, may remove an independent executor when:

(1) the independent executor fails to return within ninety days after qualification, unless such time is extended by order of the court, either an inventory of the property of the estate and list of claims that have come to the independent executor's knowledge or an affidavit in lieu of the inventory, appraisalment, and list of claims;

(2) sufficient grounds appear to support belief that the independent executor has misapplied or embezzled, or that the independent executor is about to misapply or embezzle, all or any part of the property committed to the independent executor's care;

(3) the independent executor fails to make an accounting which is required by law to be made;

(4) the independent executor fails to timely file the affidavit or certificate required by Section 128A of this code;

(5) the independent executor is proved to have been guilty of gross misconduct or gross mismanagement in the performance of the independent executor's duties; ~~[or]~~

(6) the independent executor becomes an incapacitated person, or is sentenced to the penitentiary, or from any other cause becomes incapable of [legally ~~incapacitated from]~~ properly performing the independent executor's fiduciary duties; or

(7) the independent executor becomes incapable of properly performing the independent executor's fiduciary duties due to a material conflict of interest.

(a-1) The court, on its own motion or on the motion of any interested person, and after the independent executor has been cited by certified mail, return receipt requested, to answer at a time and place stated in the citation, may remove an independent executor who is appointed under the provisions of this code if the independent executor:

(1) subject to Subsection (a-2)(1) of this section, fails to qualify in the manner and period required by law;

(2) subject to Subsection (a-2)(2) of this section, fails to return not later than the 90th day after the date the independent executor qualifies an inventory of the estate property and a list of claims that have come to the independent executor's knowledge or an affidavit in lieu of the inventory, appraisal, and list of claims, unless the period is extended by court order;

(3) cannot be served with notices or other processes because the:

(A) independent executor's location is unknown;

(B) independent executor is eluding service; or

(C) independent executor is a nonresident of this state who does not have a resident agent to accept service of process in a probate proceeding or other action relating to the estate; or

(4) subject to Subsection (a-2)(3) of this section, has misapplied, embezzled, or removed from the state, or is about to misapply, embezzle, or remove from the state, all or any part of the property committed to the independent executor's care.

(a-2) The court may remove an independent executor:

(1) under Subsection (a-1)(1) of this section only if the independent executor fails to qualify on or before the 30th day after the date the court sends a notice by certified mail, return receipt requested, to the independent executor's last known address and to the last known address of the independent executor's attorney, notifying the independent executor and attorney of the court's intent to remove the independent executor for failure to qualify in the manner and period required by law;

(2) under Subsection (a-1)(2) of this section only if the independent executor fails to file an inventory and list of claims or an affidavit in lieu of the inventory, appraisal, and list of claims as required by law on or before the 30th day after the date the court sends a notice by certified mail, return receipt requested, to the independent executor's last known address and to the last known address of the independent executor's attorney, notifying the independent executor and attorney of the court's intent to remove the independent executor for failure to file the inventory and list of claims or affidavit; and

(3) under Subsection (a-1)(4) of this section only on presentation of clear and convincing evidence given under oath of the misapplication, embezzlement, or removal from this state of property as described by that subdivision.

Explanation: The change is necessary to make various revisions to the procedures for removal of independent executors.

(5) Senate Rules 12.03(1) and (4) are suspended to permit the committee to change text which is not in disagreement and to add text on a matter which is not included in either the house or senate version of the bill in proposed SECTION 1.49 of the bill, in Subsection (a) of that section, to read as follows:

(a) Subsection (c), Section 48, Subsection (c), Section 53C, Section 70, and Subsection (f), Section 251, Texas Probate Code, are repealed.

Explanation: The change is necessary to add a repeal of Subsection (c), Section 53C, Texas Probate Code.

(6) Senate Rule 12.03(4) is suspended to permit the committee to add text on a matter which is not included in either the house or senate version of the bill in proposed SECTION 1.50 of the bill to read as follows:

(i) Sections 34A, 407, 408, and 427, Texas Probate Code, as amended by this article, and Section 254, Texas Probate Code, as added by this article, apply to the estate of a decedent that is pending or commenced on or after September 1, 2011, regardless of the date of the decedent's death.

(j) The changes in law made by this article to Section 77, Texas Probate Code, apply only to an application for the grant of letters testamentary or of administration of a decedent's estate filed on or after September 1, 2011. An application for the grant of letters testamentary or of administration of a decedent's estate filed before that date 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.

(k) The changes in law made by this article to Subsection (a), Section 83, Texas Probate Code, apply only to an application for the probate of a will or administration of the estate of a decedent that is pending or filed on or after September 1, 2011.

(l) The changes in law made by this article to Subsections (a) and (b), Section 53C, Texas Probate Code, apply only to a proceeding to declare heirship commenced on or after September 1, 2011. A proceeding to declare heirship commenced before that date is governed by the law in effect on the date the proceeding was commenced, and the former law is continued in effect for that purpose.

Explanation: The change is necessary to add transition provisions for sections of the Texas Probate Code that are amended in the bill.

(7) Senate Rules 12.03(1), (3), and (4) are suspended to permit the committee to change text which is not in disagreement, to add text on a matter which is not in disagreement, and to add text on a matter which is not included in either the house or senate version of the bill in proposed SECTION 2.22 of the bill, in amended Section 202.004, Estates Code, as effective January 1, 2014, to read as follows:

SECTION 2.22. Section 202.004, Estates Code, as effective January 1, 2014, is amended to read as follows:

Sec. 202.004. PERSONS WHO MAY COMMENCE PROCEEDING TO DECLARE HEIRSHIP. A proceeding to declare heirship of a decedent may be commenced and maintained under a circumstance specified by Section 202.002 by:

- (1) the personal representative of the decedent's estate;
- (2) a person claiming to be a secured or unsecured creditor or the owner of all or part of the decedent's estate; ~~or~~
- (3) if the decedent was a ward with respect to whom a guardian of the estate had been appointed, the guardian of the estate, provided that the proceeding is commenced and maintained in the probate court in which the proceedings for the guardianship of the estate were pending at the time of the decedent's death;
- (4) a party seeking the appointment of an independent administrator under Section 401.003; or
- (5) the trustee of a trust holding assets for the benefit of a decedent.

Explanation: The change is necessary to authorize persons claiming to be unsecured creditors to institute proceedings to declare heirship.

(8) Senate Rules 12.03(1) and (4) are suspended to permit the committee to change text which is not in disagreement and to add text on a matter which is not included in either the house or senate version of the bill in proposed SECTION 2.47 of the bill, in amended Subchapter B, Chapter 309, Estates Code, as effective January 1, 2014, to read as follows:

SECTION 2.47. Subchapter B, Chapter 309, Estates Code, as effective January 1, 2014, is amended by adding Sections 309.056 and 309.057 to read as follows:

...
Sec. 309.057. PENALTY FOR FAILURE TO TIMELY FILE INVENTORY, APPRAISEMENT, AND LIST OF CLAIMS OR AFFIDAVIT IN LIEU OF. (a) This section applies only to a personal representative, including an independent executor or administrator, who does not file an inventory, appraisal, and list of claims or affidavit in lieu of the inventory, appraisal, and list of claims, as applicable, within the period prescribed by Section 309.051 or any extension granted by the court.

(b) Any person interested in the estate on written complaint, or the court on the court's own motion, may have a personal representative to whom this section applies cited to file the inventory, appraisal, and list of claims or affidavit in lieu of the inventory, appraisal, and list of claims, as applicable, and show cause for the failure to timely file.

(c) If the personal representative does not file the inventory, appraisal, and list of claims or affidavit in lieu of the inventory, appraisal, and list of claims, as applicable, after being cited or does not show good cause for the failure to timely file, the court on hearing may fine the representative in an amount not to exceed \$1,000.

(d) The personal representative and the representative's sureties, if any, are liable for any fine imposed under this section and for all damages and costs sustained by the representative's failure. The fine, damages, and costs may be recovered in any court of competent jurisdiction.

Explanation: The change is necessary to provide a penalty against personal representatives of decedents' estates for failing to timely file an inventory, appraisal, and list of claims or an affidavit in lieu of the inventory, appraisal, and list of claims.

(9) Senate Rules 12.03(1), (2), and (3) are suspended to permit the committee to change and omit text which is not in disagreement and to add text on a matter which is not in disagreement in proposed SECTION 2.49 of the bill, in Section 352.004, Estates Code, as effective January 1, 2014, to read as follows:

SECTION 2.49. Section 352.004, Estates Code, as effective January 1, 2014, is amended to read as follows:

Sec. 352.004. DENIAL OF COMPENSATION. The court may, on application of an interested person or on the court's own motion, wholly or partly deny a commission allowed by this subchapter if:

(1) the court finds that the executor or administrator has not taken care of and managed estate property prudently; or

(2) the executor or administrator has been removed under Section 404.003 [~~149C~~] or Subchapter B, Chapter 361.

Explanation: This change is necessary to make a conforming change to a cross-reference in the Estates Code.

(10) Senate Rule 12.03(4) is suspended to permit the committee to add text on a matter which is not included in either the house or senate version of the bill in proposed SECTION 2.59 of the bill, in added Chapter 404, Estates Code, as effective January 1, 2014, to read as follows:

Sec. 404.003. REMOVAL OF INDEPENDENT EXECUTOR. (a) The probate court, on its own motion or on motion of any interested person, after the independent executor has been cited by personal service to answer at a time and place fixed in the notice, may remove an independent executor when:

(1) the independent executor fails to return within 90 days after qualification, unless such time is extended by order of the court, either an inventory of the property of the estate and list of claims that have come to the independent executor's knowledge or an affidavit in lieu of the inventory, appraisal, and list of claims;

(2) sufficient grounds appear to support belief that the independent executor has misapplied or embezzled, or that the independent executor is about to misapply or embezzle, all or any part of the property committed to the independent executor's care;

(3) the independent executor fails to make an accounting which is required by law to be made;

(4) the independent executor fails to timely file the affidavit or certificate required by Section 308.004;

(5) the independent executor is proved to have been guilty of gross misconduct or gross mismanagement in the performance of the independent executor's duties;

(6) the independent executor becomes an incapacitated person, or is sentenced to the penitentiary, or from any other cause becomes incapable of properly performing the independent executor's fiduciary duties; or

(7) the independent executor becomes incapable of properly performing the independent executor's fiduciary duties due to a material conflict of interest.

(b) The probate court, on its own motion or on the motion of any interested person, and after the independent executor has been cited by certified mail, return receipt requested, to answer at a time and place stated in the citation, may remove an independent executor who is appointed under the provisions of this code if the independent executor:

(1) subject to Subsection (c)(1), fails to qualify in the manner and period required by law;

(2) subject to Subsection (c)(2), fails to return not later than the 90th day after the date the independent executor qualifies an inventory of the estate property and a list of claims that have come to the independent executor's knowledge or an affidavit in lieu of the inventory, appraisal, and list of claims, unless the period is extended by court order;

(3) cannot be served with notices or other processes because the:

(A) independent executor's location is unknown;

(B) independent executor is eluding service; or

(C) independent executor is a nonresident of this state who does not have a resident agent to accept service of process in a probate proceeding or other action relating to the estate; or

(4) subject to Subsection (c)(3), has misapplied, embezzled, or removed from the state, or is about to misapply, embezzle, or remove from the state, all or any part of the property committed to the independent executor's care.

(c) The probate court may remove an independent executor:

(1) under Subsection (b)(1) only if the independent executor fails to qualify on or before the 30th day after the date the court sends a notice by certified mail, return receipt requested, to the independent executor's last known address and to the last known address of the independent executor's attorney, notifying the independent executor and attorney of the court's intent to remove the independent executor for failure to qualify in the manner and period required by law;

(2) under Subsection (b)(2) only if the independent executor fails to file an inventory and list of claims or an affidavit in lieu of the inventory, appraisal, and list of claims as required by law on or before the 30th day after the date the court sends a notice by certified mail, return receipt requested, to the independent executor's last known address and to the last known address of the independent executor's attorney, notifying the independent executor and attorney of the court's intent to remove the independent executor for failure to file the inventory and list of claims or affidavit; and

(3) under Subsection (b)(4) only on presentation of clear and convincing evidence given under oath of the misapplication, embezzlement, or removal from this state of property as described by that subdivision.

(d) The order of removal shall state the cause of removal and shall direct by order the disposition of the assets remaining in the name or under the control of the removed executor. The order of removal shall require that letters issued to the removed executor shall be surrendered and that all letters shall be canceled of record. If an independent executor is removed by the court under this section, the court may, on application, appoint a successor independent executor as provided by Section 404.005.

(e) An independent executor who defends an action for the independent executor's removal in good faith, whether successful or not, shall be allowed out of the estate the independent executor's necessary expenses and disbursements, including reasonable attorney's fees, in the removal proceedings.

(f) Costs and expenses incurred by the party seeking removal that are incident to removal of an independent executor appointed without bond, including reasonable attorney's fees and expenses, may be paid out of the estate.

Explanation: The change is necessary to make various revisions to the procedures for removal of independent executors.

(11) Senate Rules 12.03(1), (2), and (4) are suspended to permit the committee to change text which is not in disagreement, omit text which is not in disagreement, and add text on a matter which is not included in either the house or senate version of the bill in proposed SECTION 2.61 of the bill, in Subsections (a) and (b) of that section, to read as follows:

(a) Sections 202.003 and 255.201, Estates Code, as effective January 1, 2014, are repealed.

(b) The following sections of the Texas Probate Code are repealed:

(1) Sections 4D, 4H, 15, 34A, 37A, 48(a), 49, 53C(a) and (b), 59, 64, 67, 77, 81(a), 83(a), 84, 89A(a), 128A, 143, 227, 250, 256, 260, 271(a) and (b), 286, 293, 385(a), 407, 408(b), (c), and (d), 427, 436, 439, 452, 471, 472, and 473, as amended by Article 1 of this Act; and

(2) Sections 6A, 6B, 6C, 6D, 8A, 8B, 48(d), 145A, 145B, 145C, and 254, as added by Article 1 of this Act.

Explanation: The change is necessary to correct the repeal of a provision of the Estates Code and to repeal, when the Estates Code takes effect, certain provisions of the Texas Probate Code that are amended or added in Article 1 of the bill.

SR 1254 was read and was adopted by the following vote: Yeas 31, Nays 0.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 1198 ADOPTED

Senator Rodriguez called from the President's table the Conference Committee Report on **SB 1198**. The Conference Committee Report was filed with the Senate on Saturday, May 28, 2011.

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

CONFERENCE COMMITTEE REPORT ON SENATE BILL 8 ADOPTED

Senator Nelson called from the President's table the Conference Committee Report on **SB 8**. The Conference Committee Report was filed with the Senate on Saturday, May 28, 2011.

On motion of Senator Nelson, the Conference Committee Report was adopted by the following vote: Yeas 22, Nays 9.

Yeas: Birdwell, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Gallegos, Harris, Hegar, Huffman, Jackson, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Uresti, Wentworth, Whitmire, Williams.

Nays: Davis, Ellis, Hinojosa, Lucio, Rodriguez, Van de Putte, Watson, West, Zaffirini.

REASON FOR VOTE

Senator Van de Putte submitted the following reason for vote on **SB 8**:

I voted against SB 8, as amended with HB 5, because the amendment would allow for the establishment of an Interstate Health Care Compact, which would authorize the Texas legislature to suspend the operation of federal laws, rules, regulations regarding health care that are inconsistent with a state law or regulation. The language amended onto SB 8 jeopardizes the uniformity that states have in regard to health care policy. I stand in opposition to SB 8 as amended because I cannot support legislation that favors block-granting of Medicare.

VAN DE PUTTE

MESSAGE FROM THE HOUSE

HOUSE CHAMBER
Austin, Texas
Sunday, May 29, 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 ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

HB 628 (145 Yeas, 0 Nays, 1 Present, not voting)

HB 753 (116 Yeas, 27 Nays, 2 Present, not voting)

HB 1517 (140 Yeas, 3 Nays, 1 Present, not voting)

HB 2457 (145 Yeas, 2 Nays, 2 Present, not voting)

HB 3726 (144 Yeas, 3 Nays, 2 Present, not voting)

SB 158 (146 Yeas, 2 Nays, 1 Present, not voting)

SB 1134 (138 Yeas, 4 Nays, 1 Present, not voting)

SB 1664 (128 Yeas, 17 Nays, 2 Present, not voting)

THE HOUSE HAS REFUSED TO ADOPT THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

SB 1816 (56 Yeas, 87 Nays, 3 Present, not voting)

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

SENATE RULE 8.02 SUSPENDED
(Referral to Committee)

Senator Carona moved to suspend Senate Rule 8.02 to take up for consideration **HCR 144** at this time.

The motion prevailed by a viva voce vote.

All Members are deemed to have voted "Yea" on suspension of the rule.

HOUSE CONCURRENT RESOLUTION 144

The President laid before the Senate the following resolution:

WHEREAS, The Lone Star State has benefited enormously from the contributions of its Italian American residents; and

WHEREAS, During the 17th, 18th, and early 19th centuries, the few Italians who came to Texas were mainly explorers, adventurers, or missionaries; Italians began to play a larger role toward the end of the 19th century, when Piedmontese made their homes in Montague County and Sicilians settled in the lower Brazos valley and on the Galveston County mainland; Modenese, Venetians, and Piedmontese worked the coal mines at Thurber, and Italian financier Joseph Telfener brought some 1,200 Lombards to help construct the New York, Texas and Mexican Railway between Victoria and Rosenberg; and

WHEREAS, Most of the railway builders and coal miners moved back to Italy or on to other places when their work was completed; however, the Italian American community in the Brazos valley fanned out into surrounding areas, and settlements in Houston, Galveston, and San Antonio expanded rapidly; new residents founded churches, newspapers, and benevolent-fraternal organizations, as well as businesses; prominent Italian Americans of the 20th century include bootmaker Sam Lucchese, sculptor Pompeo Coppini, rancher Antonio Mateo Bruni, and agriculturalist-developer Biagio Varisco; the towns of Bruni and Varisco and such names as Bruni Park, Varisco Airport, Liggio Street, and Laneri Avenue are a testament to the achievements of Italian Americans; and

WHEREAS, Through the years, individuals of Italian descent have excelled in all sectors of our society and economy, enriching our cultural tapestry, enhancing our prosperity, and securing the Lone Star State's reputation as a land of promise and possibility; June 2 represents an ideal date on which to honor those accomplishments, as Italians around the world celebrate this day as Festa della Repubblica to commemorate the 1946 referendum that ended the monarchy in Italy and established a republic; now, therefore, be it

RESOLVED, That the 82nd Legislature of the State of Texas hereby designate June 2 as Italian Heritage Day; and, be it further

RESOLVED, That, in accordance with the provisions of Section 391.004(d), Government Code, the designation expires on the 10th anniversary of the date this resolution is passed by the legislature.

CARONA

HCR 144 was read.

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

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

(Senator Eltife in Chair)

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 1717 ADOPTED**

Senator Duncan called from the President's table the Conference Committee Report on **SB 1717**. The Conference Committee Report was filed with the Senate on Saturday, May 28, 2011.

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

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 1400 ADOPTED**

Senator West called from the President's table the Conference Committee Report on **HB 1400**. The Conference Committee Report was filed with the Senate on Saturday, May 28, 2011.

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

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 3328 ADOPTED**

Senator Fraser called from the President's table the Conference Committee Report on **HB 3328**. The Conference Committee Report was filed with the Senate on Saturday, May 28, 2011.

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

SENATE RESOLUTION 1250

Senator Hinojosa offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 82nd Legislature, Regular Session, 2011, That Senate Rule 12.03 be suspended in part as provided by Senate Rule 12.08 to enable the conference committee appointed to resolve the differences on Senate Bill 660 (review and functions of the Texas Water Development Board, including the functions of the board and related entities in connection with the process for establishing and appealing desired future conditions in a groundwater management area), to consider and take action on the following matters:

(1) Senate Rules 12.03(1) and (4) are suspended to permit the committee to change text not in disagreement and to add text on a matter not included in either the house or senate version of the bill in proposed Section 17 of the bill, by adding Section 36.1083, Water Code, to read as follows:

Sec. 36.1083. APPEAL OF DESIRED FUTURE CONDITIONS. (a) In this section, "development board" means the Texas Water Development Board.

(b) ~~[(4)]~~ A person with a legally defined interest in the groundwater in the ~~[groundwater]~~ management area, a district in or adjacent to the ~~[groundwater]~~ management area, or a regional water planning group for a region in the ~~[groundwater]~~ management area may file a petition with the development board appealing the approval of the desired future conditions of the groundwater resources established under this section. The petition must provide evidence that the districts did not establish a reasonable desired future condition of the groundwater resources in the ~~[groundwater]~~ management area.

(c) ~~[(4)]~~ The development board shall review the petition and any evidence relevant to the petition. The development board shall hold at least one hearing at a central location in the management area to take testimony on the petition. The development board may delegate responsibility for a hearing to the executive administrator or to a person designated by the executive administrator. If the

development board finds that the conditions require revision, the development board shall submit a report to the districts that includes a list of findings and recommended revisions to the desired future conditions of the groundwater resources.

(d) [(a)] The districts shall prepare a revised plan in accordance with development board recommendations and hold, after notice, at least one public hearing at a central location in the [groundwater] management area. After consideration of all public and development board comments, the districts shall revise the conditions and submit the conditions to the development board for review.

Explanation: This change is necessary to restore language in current law regarding the method for appealing desired future conditions that was bracketed out by the house and senate versions of the bill.

(2) Senate Rule 12.03(1) is suspended to permit the committee to change text not in disagreement in proposed Section 24 of the bill to read as follows:

SECTION 24. The requirement that a groundwater conservation district's management plan under Subsection (a), Section 36.1071, Water Code, as amended by this Act, include the desired future conditions adopted under Section 36.108, Water Code, as amended by this Act, for submission to the executive administrator of the Texas Water Development Board before the plan is considered administratively complete applies only to a district management plan submitted to the executive administrator on or after the effective date of this Act. A management plan submitted before the effective date of this Act is governed by the law in effect on the date the plan was submitted, and that law is continued in effect for that purpose.

Explanation: This change is necessary to correct an error in a cross-reference.

(3) Senate Rule 12.03(2) is suspended to permit the committee to omit text not in disagreement in Section 25 of the senate and house versions of the bill that reads as follows:

SECTION 25. A petition filed and pending on the effective date of this Act before the Texas Water Development Board to appeal the adoption of desired future conditions by a groundwater management area under former Subsection (l), Section 36.108, Water Code, shall be handled by the Texas Water Development Board in compliance with Subsections (l), (m), and (n), Section 36.108, Water Code, as those subsections existed before the effective date of this Act.

Explanation: This change is necessary to reflect the addition of Section 36.1083, Water Code, which restores language in current law that was bracketed out by the house and senate versions of the bill.

SR 1250 was read and was adopted by the following vote: Yeas 31, Nays 0.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 660 ADOPTED

Senator Hinojosa called from the President's table the Conference Committee Report on **SB 660**. The Conference Committee Report was filed with the Senate on Saturday, May 28, 2011.

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

SENATE RESOLUTION 1204

Senator Van de Putte offered the following resolution:

SR 1204, Suspending limitations on conference committee jurisdiction, H.B. No. 3726.

The resolution was read.

Senator Van de Putte withdrew further consideration of **SR 1204**.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 3726 ADOPTED**

Senator Van de Putte called from the President's table the Conference Committee Report on **HB 3726**. The corrected Conference Committee Report was filed with the Senate on Saturday, May 28, 2011.

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

SENATE RESOLUTION 1253

Senator West offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 82nd Legislature, Regular Session, 2011, That Senate Rule 12.03 be suspended in part as provided by Senate Rule 12.08 to enable the conference committee appointed to resolve the differences on House Bill 362 (regulation by a property owners' association of the installation of solar energy devices and certain roofing materials on property) to consider and take action on the following matters:

(1) Senate Rule 12.03(3) is suspended to permit the committee, in SECTION 1 of the bill, in added Section 202.010(a), Property Code, to add text on a matter which is not in disagreement to read as follows:

(1) "Development period" means a period stated in a declaration during which a declarant reserves:

(A) a right to facilitate the development, construction, and marketing of the subdivision; and

(B) a right to direct the size, shape, and composition of the subdivision.

(2) Senate Rule 12.03(3) is suspended to permit the committee, in SECTION 1 of the bill, in added Section 202.010, Property Code, to add text on a matter which is not in disagreement to read as follows:

(f) During the development period, the declarant may prohibit or restrict a property owner from installing a solar energy device.

(3) Senate Rule 12.03(1) is suspended to permit the committee, in SECTION 1 of the bill, in added Section 202.011(1), Property Code, to change text on a matter which is not in disagreement to read as follows:

(1) are designed primarily to:

(A) be wind and hail resistant;

(B) provide heating and cooling efficiencies greater than those provided by customary composite shingles; or

(C) provide solar generation capabilities; and

Explanation: These changes are necessary to:

(1) clarify the application of provisions relating to the regulation of solar energy devices by property owners' associations; and

(2) modify the authority granted to property owners' associations relating to the installation of certain roofing materials.

SR 1253 was read and was adopted by the following vote: Yeas 31, Nays 0.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 362 ADOPTED**

Senator West called from the President's table the Conference Committee Report on **HB 362**. The Conference Committee Report was filed with the Senate on Saturday, May 28, 2011.

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

SENATE RESOLUTION 1259

Senator Lucio offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 82nd Legislature, Regular Session, 2011, That Senate Rule 12.03 be suspended in part as provided by Senate Rule 12.08 to enable the conference committee appointed to resolve the differences on Senate Bill 1320 (the execution of written instruments relating to residential real estate transactions and deeds conveying residential real estate in connection with certain transactions involving residential real estate) to consider and take action on the following matters:

(1) Senate Rules 12.03(3) and (4) are suspended to permit the committee to add text on a matter not in disagreement and not included in either the house or senate version of the bill by adding Subsection (d) to proposed Section 21.002, Business & Commerce Code, to read as follows:

(d) 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.

Explanation: The addition of text is necessary to authorize purchasers or borrowers to recover reasonable and necessary attorney's fees in an action to void a deed under proposed Section 21.002, Business & Commerce Code.

(2) Senate Rule 12.03(2) is suspended to permit the committee to omit text which is not in disagreement in SECTION 1 of the bill, by omitting proposed Section 21.003, Business & Commerce Code, which reads as follows:

Sec. 21.003. CIVIL ACTION FOR DAMAGES. A person who violates Section 21.002 is liable to the purchaser or borrower for:

(1) actual damages;

(2) exemplary damages in an amount equal to or greater than \$5,000 and not more than three times the amount of actual damages;

(3) court costs; and

(4) reasonable attorney's fees.

Explanation: The omission of the text is necessary to remove a civil action for damages under proposed Chapter 21, Business & Commerce Code.

(3) Senate Rule 12.03(4) is suspended to permit the committee to add text on a matter which is not included in either the house or senate version of the bill to proposed Chapter 21, Business & Commerce Code, to read as follows:

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.

Explanation: This change is necessary to authorize the attorney general to bring an action for injunctive relief or the recovery of a civil penalty and to allow a court to order the return of a deed to a purchaser under proposed Chapter 21, Business & Commerce Code.

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

SECTION 2. Section 121.005(a), Civil Practice and Remedies Code, is amended to read as follows:

(a) An officer may not take the acknowledgment of a written instrument unless the officer knows or has satisfactory evidence that the acknowledging person is the person who executed the instrument and is described in it. An officer may accept, as satisfactory evidence of the identity of an acknowledging person, only:

(1) the oath of a credible witness personally known to the officer; ~~or~~

(2) a current identification card or other document issued by the federal government or any state government that contains the photograph and signature of the acknowledging person; or

(3) with respect to a deed or other instrument relating to a residential real estate transaction, a current passport issued by a foreign country.

Explanation: This change is necessary to permit an officer to accept a foreign passport as proof of the identity of an individual acknowledging a written instrument relating to a residential real estate transaction.

SR 1259 was read and was adopted by the following vote: Yeas 31, Nays 0.

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 1320 ADOPTED**

Senator Lucio called from the President's table the Conference Committee Report on **SB 1320**. The Conference Committee Report was filed with the Senate on Saturday, May 28, 2011.

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

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 725 ADOPTED**

Senator Fraser called from the President's table the Conference Committee Report on **HB 725**. The Conference Committee Report was filed with the Senate on Saturday, May 28, 2011.

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

Nays: Nelson.

SENATE RESOLUTION 1255

Senator Watson offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 82nd Legislature, Regular Session, 2011, That Senate Rule 12.03 be suspended in part as provided by Senate Rule 12.08 to enable the conference committee appointed to resolve the differences on House Bill 2439 (posting suggestions and ideas on cost-efficiency on certain state agency websites, posting state budget documents on a state agency website, and a state agency website to provide information to the consumers of retail electric service) to consider and take action on the following matters:

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

SECTION 5. Section 39.916, Utilities Code, is amended by adding Subsection (i) to read as follows:

(i) A retail electric provider that does not purchase surplus electricity from a distributed renewable generation owner shall include on each residential customer's bill a statement, in at least 12-point type on the front of the first page, that informs the customer that the customer can get information at www.powertochoose.com regarding retail electric providers that do purchase surplus electricity from a distributed renewable generation owner.

Explanation: The change is necessary to require a retail electric provider to give written notice to each customer regarding the availability to the customer of a retail electric provider that purchases surplus electricity from a distributed renewable generation owner.

(2) Senate Rule 12.03(4) is suspended to permit the committee to add text not included in either the house or senate version of the bill to added Section 322.0081, Government Code, by adding Subsections (d) and (e) to read as follows:

(d) The requirement under Subsection (a) does not supersede any exceptions provided under Chapter 552.

(e) The board shall promulgate rules to implement the provisions of this section.

Explanation: This addition is necessary to clarify that added Section 322.0081(a), Government Code, does not supersede any exceptions under Chapter 552, Government Code, and to require the Legislative Budget Board to promulgate rules to implement added Section 322.0081.

(3) Senate Rule 12.03(1) is suspended to permit the committee to change text not in disagreement in added Sections 322.0081(a) and (c), Government Code, to read as follows:

(a) The board shall post on the board's Internet website documents prepared by the board that are provided to a committee, subcommittee, or conference committee of either house of the legislature in connection with an appropriations bill.

(c) The document must be downloadable and provide data in a format that allows the public to search, extract, organize, and analyze the information in the document.

Explanation: The change is necessary to remove text that does not add to the clear meaning of the law and to indicate that the budget document on the website is not required to be in open standard format.

SR 1255 was read and was adopted by the following vote: Yeas 29, Nays 2.

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

Nays: Fraser, Hegar.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 2439 ADOPTED

Senator Watson called from the President's table the Conference Committee Report on **HB 2439**. The Conference Committee Report was filed with the Senate on Saturday, May 28, 2011.

On motion of Senator Watson, the Conference Committee Report was adopted by the following vote: Yeas 29, Nays 2.

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

Nays: Fraser, Hegar.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 1588 ADOPTED

Senator Ogden called from the President's table the Conference Committee Report on **SB 1588**. The Conference Committee Report was filed with the Senate on Friday, May 27, 2011.

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

Nays: Watson.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

Sunday, May 29, 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 ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

HB 1335 (137 Yeas, 6 Nays, 1 Present, not voting)

HB 1400 (146 Yeas, 0 Nays, 1 Present, not voting)

SB 1420 (118 Yeas, 26 Nays, 1 Present, not voting)

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 2093 ADOPTED

Senator Van de Putte called from the President's table the Conference Committee Report on **HB 2093**. The Conference Committee Report was filed with the Senate on Saturday, May 28, 2011.

On motion of Senator Van de Putte, the Conference Committee Report was adopted by the following vote: Yeas 26, Nays 5.

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

Nays: Birdwell, Nelson, Nichols, Patrick, Shapiro.

(President Pro Tempore Ogden in Chair)

HOUSE CONCURRENT RESOLUTION 173

The President Pro Tempore laid before the Senate the following resolution:

WHEREAS, House Bill No. 1451 has been adopted by the house of representatives and the senate and is being prepared for enrollment; and

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

RESOLVED by the 82nd Legislature of the State of Texas, That the enrolling clerk of the house of representatives be instructed to correct House Bill No. 1451 as follows:

(1) In added Section 802.002(17), Occupations Code, strike "802.062" and substitute "802.061".

(2) In added Section 802.064, Occupations Code, strike "802.063 or 802.103 or an investigation under Section 802.064" and substitute "802.062 or 802.103 or an investigation under Section 802.063".

(3) In SECTION 3 of the bill, strike "802.066" and substitute "802.065".

WHITMIRE

HCR 173 was read.

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

CONFERENCE COMMITTEE ON SENATE BILL 40 DISCHARGED

Senator Zaffirini moved to discharge the Senate conferees and to concur in the House amendments to **SB 40**.

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

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 6 ADOPTED

Senator Shapiro called from the President's table the Conference Committee Report on **HB 6**. The Conference Committee Report was filed with the Senate on Saturday, May 28, 2011.

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

CONFERENCE COMMITTEE REPORT ON SENATE BILL 1600 ADOPTED

Senator Whitmire called from the President's table the Conference Committee Report on **SB 1600**. The Conference Committee Report was filed with the Senate on Saturday, May 28, 2011.

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

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 3459 ADOPTED

Senator Whitmire called from the President's table the Conference Committee Report on **HB 3459**. The Conference Committee Report was filed with the Senate on Saturday, May 28, 2011.

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

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 2365 ADOPTED**

Senator Shapiro called from the President's table the Conference Committee Report on **HB 2365**. The Conference Committee Report was filed with the Senate on Saturday, May 28, 2011.

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

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 3468 ADOPTED**

Senator Shapiro called from the President's table the Conference Committee Report on **HB 3468**. The Conference Committee Report was filed with the Senate on Saturday, May 28, 2011.

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

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 694 ADOPTED**

Senator West called from the President's table the Conference Committee Report on **SB 694**. The Conference Committee Report was filed with the Senate on Saturday, May 28, 2011.

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

**MOTION TO ADOPT
CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 3246**

Senator West called from the President's table the Conference Committee Report on **HB 3246**. The Conference Committee Report was filed with the Senate on Saturday, May 28, 2011.

Senator West moved to adopt the Conference Committee Report on **HB 3246**.

The motion was lost by the following vote: Yeas 12, Nays 19.

Yeas: Davis, Duncan, Ellis, Estes, Hinojosa, Lucio, Seliger, Uresti, Van de Putte, Watson, West, Zaffirini.

Nays: Birdwell, Carona, Deuell, Eltife, Fraser, Gallegos, Harris, Hegar, Huffman, Jackson, Nelson, Nichols, Ogden, Patrick, Rodriguez, Shapiro, Wentworth, Whitmire, Williams.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 335 ADOPTED**

Senator Birdwell called from the President's table the Conference Committee Report on **HB 335**. The Conference Committee Report was filed with the Senate on Saturday, May 28, 2011.

On motion of Senator Birdwell, the Conference Committee Report was adopted by the following vote: Yeas 26, Nays 5.

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

Nays: Davis, Lucio, Rodriguez, Watson, Zaffirini.

SENATE CONCURRENT RESOLUTION 60

The President Pro Tempore laid before the Senate the following resolution:

WHEREAS, Senate Bill No. 1420 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 make the following corrections:

(1) In SECTION 13 of the bill, in amended Section 201.401(b), Transportation Code (conference committee report page 10, line 3), strike ", outside, or retained".

(2) In SECTION 31 of the bill, in added Section 223.201(f)(6), Transportation Code (conference committee report page 49, line 9), between "the" and "Highway" insert "State".

HINOJOSA

SCR 60 was read.

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

MOMENT OF SILENCE OBSERVED

At the request of the President Pro Tempore, the Senate observed a moment of silence in memory of former Governor William Perry "Bill" Clements.

RECESS

On motion of Senator Whitmire, the Senate at 5:36 p.m. recessed until 8:30 p.m. today.

AFTER RECESS

The Senate met at 9:09 p.m. and was called to order by the President.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

Sunday, May 29, 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 ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

- HB 414** (140 Yeas, 4 Nays, 1 Present, not voting)
HB 2380 (144 Yeas, 2 Nays, 2 Present, not voting)
HB 2817 (123 Yeas, 25 Nays, 1 Present, not voting)
HB 3109 (148 Yeas, 0 Nays, 1 Present, not voting)
HB 3246 (146 Yeas, 2 Nays, 1 Present, not voting)
SB 89 (121 Yeas, 25 Nays, 1 Present, not voting)
SB 472 (77 Yeas, 65 Nays, 1 Present, not voting)
SB 516 (147 Yeas, 0 Nays, 2 Present, not voting)
SB 660 (147 Yeas, 0 Nays, 1 Present, not voting)

THE HOUSE HAS REFUSED TO ADOPT THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

- HB 213** (63 Yeas, 83 Nays, 1 Present, not voting)

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

**VOTES RECONSIDERED ON
HOUSE BILL 1665**

On motion of Senator Fraser and by unanimous consent, the vote by which **HB 1665** was finally passed was reconsidered:

HB 1665, Relating to the notification requirements regarding certain land use regulations in an area near military facilities.

Question — Shall **HB 1665** be finally passed?

On motion of Senator Fraser and by unanimous consent, the vote by which Floor Amendment No. 2 on Third Reading was adopted was reconsidered.

Question — Shall Floor Amendment No. 2 on Third Reading to **HB 1665** be adopted?

Senator Hinojosa withdrew Floor Amendment No. 2 on Third Reading.

On motion of Senator Fraser and by unanimous consent, the vote by which **HB 1665** was passed to third reading was reconsidered.

Question — Shall **HB 1665** be passed to third reading?

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

Question — Shall Floor Amendment No. 1 to **HB 1665** be adopted?

Senator Fraser withdrew Floor Amendment No. 1.

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

HB 1665 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.

HOUSE BILL 1665 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 1665** be placed on its third reading and final passage.

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

HB 1665 was again passed by the following vote: Yeas 31, Nays 0.

VOTE RECONSIDERED ON SENATE BILL 1198

Senator Rodriguez moved to reconsider the vote by which the Conference Committee Report on **SB 1198** was adopted.

The motion prevailed.

Question — Shall the Conference Committee Report on **SB 1198** be adopted?

Senator Rodriguez moved to recommit **SB 1198** to the conference committee.

The motion prevailed without objection.

CONFERENCE COMMITTEE ON SENATE BILL 1198 DISCHARGED

Senator Rodriguez moved to discharge the Senate conferees and to concur in the House amendments to **SB 1198**.

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

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

Sunday, May 29, 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 ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

SB 1811 (84 Yeas, 63 Nays, 1 Present, not voting)

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

SENATE RESOLUTION 1260

Senator Duncan offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 82nd Legislature, Regular Session, 2011, That Senate Rule 12.03 be suspended in part as provided by Senate Rule 12.08 to enable the conference committee appointed to resolve the differences on Senate Bill 1811, relating to certain state fiscal matters; providing penalties, to consider and take action on the following matters:

(1) Senate Rule 12.03(4), is suspended to permit the committee to add text not included in either the house or senate version of the bill, in SECTION 43.01 of the bill, in amended Section 2155.082, Government Code, to read as follows:

SECTION 43.01. Section 2155.082, Government Code, is amended to read as follows:

Sec. 2155.082. PROVIDING CERTAIN PURCHASING SERVICES ON FEE-FOR-SERVICE BASIS OR THROUGH BENEFIT FUNDING. (a) The comptroller ~~[commission]~~ may provide open market purchasing services on a fee-for-service basis for state agency purchases that are delegated to an agency under Section 2155.131, 2155.132, ~~[2155.133,]~~ or 2157.121 or that are exempted from the purchasing authority of the comptroller ~~[commission]~~. The comptroller ~~[commission]~~ shall set the fees in an amount that recovers the comptroller's ~~[commission's]~~ costs in providing the services.

(b) The comptroller ~~[commission]~~ shall publish a schedule of ~~[its]~~ fees for services that are subject to this section. The schedule must include the comptroller's ~~[commission's]~~ fees for:

(1) reviewing bid and contract documents for clarity, completeness, and compliance with laws and rules;

(2) developing and transmitting invitations to bid;

(3) receiving and tabulating bids;

(4) evaluating and determining which bidder offers the best value to the state;

(5) creating and transmitting purchase orders; and

(6) participating in agencies' request for proposal processes.

(c) If the state agency on behalf of which the procurement is to be made agrees, the comptroller may engage a consultant to assist with a particular procurement on behalf of a state agency and pay the consultant from the cost savings realized by the state agency.

EXPLANATION: This change is necessary to allow a state agency to have the authority to agree to the comptroller of public accounts engaging a consultant.

(2) Senate Rules 12.03(3) and (4) are suspended to permit the committee to add text on a matter not in disagreement and text on a matter not included in either version of the bill by adding provisions amending Chapter 490, Government Code, and Chapters 203, 204, and 302, Labor Code, to read as follows:

ARTICLE 57. ENTERPRISE AND EMERGING TECHNOLOGY FUNDS

SECTION 57.01. Section 481.078, Government Code, is amended by amending Subsections (e) and (j) and adding Subsections (f-1), (f-2), and (h-1) to read as follows:

(e) The administration of the fund is considered to be a trustee program within the office of the governor. The governor may negotiate on behalf of the state regarding awarding, by grant, money appropriated from the fund. The governor may award money appropriated from the fund only with the ~~[express written]~~ prior approval of the lieutenant governor and speaker of the house of representatives. For purposes of this subsection, an award of money appropriated from the fund is considered disapproved by the lieutenant governor or speaker of the house of representatives if that officer does not approve the proposal to award the grant before the 91st day after the date of receipt of the proposal from the governor. The lieutenant governor or the speaker of the house of representatives may extend the review deadline applicable to that officer for an additional 14 days by submitting a written notice to that effect to the governor before the expiration of the initial review period.

(f-1) A grant agreement must contain a provision:

- (1) requiring the creation of a minimum number of jobs in this state; and
- (2) specifying the date by which the recipient intends to create those jobs.

(f-2) A grant agreement must contain a provision providing that if the recipient does not meet job creation performance targets as of the dates specified in the agreement, the recipient shall repay the grant in accordance with Subsection (j).

(h-1) At least 14 days before the date the governor intends to amend a grant agreement, the governor shall notify and provide a copy of the proposed amendment to the speaker of the house of representatives, the lieutenant governor, and the presiding officers of the standing committees of both houses of the legislature with primary jurisdiction over economic development.

(j) Repayment of a grant under Subsection (f)(1)(A) shall ~~[may]~~ be prorated to reflect a partial attainment of job creation performance targets, and may be prorated for a partial attainment of other performance targets.

SECTION 57.02. Subsections (a) and (b), Section 490.005, Government Code, are amended to read as follows:

(a) Not later than January 31 ~~[+]~~ of each year, the governor shall submit to the lieutenant governor, the speaker of the house of representatives, and the standing committee of each house of the legislature with primary jurisdiction over economic development matters and post on the office of the governor's Internet website a report that includes the following information regarding awards made under the fund during each ~~[for the]~~ preceding ~~[three]~~ state fiscal year ~~[years]~~:

- (1) the total number and amount of awards made;
- (2) the number and amount of awards made under Subchapters D, E, and F;
- (3) the aggregate total of private sector investment, federal government funding, and contributions from other sources obtained in connection with awards made under each of the subchapters listed in Subdivision (2);
- (4) the name of each award recipient and the amount of the award made to the recipient; and
- (5) a brief description of the equity position that the governor, on behalf of the state, may take in companies receiving awards and the names of the companies in which the state has taken an equity position.

(b) The annual report must also contain:

(1) the total number of jobs actually created by each project receiving funding under this chapter;

(2) an analysis of the number of jobs actually created by each project receiving funding under this chapter; and

(3) a brief description regarding:

(A) the methodology used to determine the information provided under Subdivisions (1) and (2), which may be developed in consultation with the comptroller's office;

(B) ~~(4)~~ the intended outcomes of projects funded under Subchapter D during each ~~the~~ preceding ~~two~~ state fiscal year ~~years~~; and

(C) ~~(2)~~ the actual outcomes of all projects funded under Subchapter D during each preceding state fiscal year ~~the fund's existence~~, including any financial impact on the state resulting from a liquidity event involving a company whose project was funded under that subchapter.

SECTION 57.03. Subchapter A, Chapter 490, Government Code, is amended by adding Section 490.006 to read as follows:

Sec. 490.006. VALUATION OF INVESTMENTS; INCLUSION IN ANNUAL REPORT. To the maximum extent practicable, the office of the governor shall annually perform a valuation of the equity positions taken by the governor, on behalf of the state, in companies receiving awards under the fund and of other investments made by the governor, on behalf of the state, in connection with an award under the fund. The valuation must:

(1) be based on a methodology that:

(A) may be developed in consultation with the comptroller's office; and

(B) is consistent with generally accepted accounting principles; and

(2) be included with the annual report required under Section 490.005.

SECTION 57.04. The heading to Section 490.052, Government Code, is amended to read as follows:

Sec. 490.052. APPOINTMENT TO COMMITTEE ~~[BY GOVERNOR]~~; NOMINATIONS.

SECTION 57.05. Section 490.052, Government Code, is amended by amending Subsection (a) and adding Subsections (a-1) and (a-2) to read as follows:

(a) The governor shall appoint to the committee 13 individuals nominated as provided by Subsection (b).

(a-1) The lieutenant governor shall appoint two individuals to the committee.

(a-2) The speaker of the house of representatives shall appoint two individuals to the committee.

SECTION 57.06. Subchapter B, Chapter 490, Government Code, is amended by adding Section 490.0521 to read as follows:

Sec. 490.0521. FINANCIAL STATEMENT REQUIRED. Each member of the committee shall file with the office of the governor a verified financial statement complying with Sections 572.022 through 572.0252 as is required of a state officer by Section 572.021.

SECTION 57.07. Section 490.054, Government Code, is amended to read as follows:

Sec. 490.054. TERMS. (a) Members of the committee appointed by the governor serve staggered two-year terms, subject to the pleasure of the governor.

(b) Members of the committee appointed by the lieutenant governor or the speaker of the house of representatives serve two-year terms.

SECTION 57.08. Section 490.056, Government Code, is amended by adding Subsections (c), (d), and (e) to read as follows:

(c) Each entity recommended by the committee for an award of money from the fund as provided by this chapter shall obtain and provide the following information to the office of the governor:

(1) a federal criminal history background check for each principal of the entity;

(2) a state criminal history background check for each principal of the entity;

(3) a credit check for each principal of the entity;

(4) a copy of a government-issued form of photo identification for each principal of the entity; and

(5) information regarding whether the entity or a principal of the entity has ever been subject to a sanction imposed by the Securities and Exchange Commission for a violation of applicable federal law.

(d) For purposes of Subsection (c), "principal" means:

(1) an officer of an entity; or

(2) a person who has at least a 10 percent ownership interest in an entity.

(e) With each proposal to award funding submitted by the governor to the lieutenant governor and speaker of the house of representatives for purposes of obtaining prior approval, the governor shall provide each officer with a copy of the information provided by the appropriate entity under Subsection (c).

SECTION 57.09. Section 490.057, Government Code, is amended to read as follows:

Sec. 490.057. CONFIDENTIALITY. (a) Except as provided by Subsection (b), information [~~Information~~] collected by the governor's office, the committee, or the committee's advisory panels concerning the identity, background, finance, marketing plans, trade secrets, or other commercially or academically sensitive information of an individual or entity being considered for, receiving, or having received an award from the fund is confidential unless the individual or entity consents to disclosure of the information.

(b) The following information collected by the governor's office, the committee, or the committee's advisory panels under this chapter is public information and may be disclosed under Chapter 552:

(1) the name and address of an individual or entity receiving or having received an award from the fund;

(2) the amount of funding received by an award recipient;

(3) a brief description of the project that is funded under this chapter;

(4) if applicable, a brief description of the equity position that the governor, on behalf of the state, has taken in an entity that has received an award from the fund; and

(5) any other information designated by the committee with the consent of:

(A) the individual or entity receiving or having received an award from the fund, as applicable;

(B) the governor;

(C) the lieutenant governor; and

(D) the speaker of the house of representatives.

SECTION 57.10. Section 490.101, Government Code, is amended by amending Subsection (f) and adding Subsection (f-1) to read as follows:

(f) The administration of the fund is considered to be a trustee program within the office of the governor. The governor may negotiate on behalf of the state regarding awards from the fund. The governor may award money appropriated from the fund only with the ~~[express written]~~ prior approval of the lieutenant governor and speaker of the house of representatives.

(f-1) For purposes of Subsection (f), an award of money appropriated from the fund is considered disapproved by the lieutenant governor or speaker of the house of representatives if that officer does not approve the proposal to award funding before the 91st day after the date of receipt of the proposal from the governor. The lieutenant governor or the speaker of the house of representatives may extend the review deadline applicable to that officer for an additional 14 days by submitting a written notice to that effect to the governor before the expiration of the initial review period.

SECTION 57.11. Subsection (a), Section 490.151, Government Code, is amended to read as follows:

(a) Amounts allocated from the fund for use as provided by this subchapter shall be used only to provide direct funding to ~~[reserved for incentives for]~~ private or nonprofit entities for incentives to collaborate with public or private institutions of higher education in this state on emerging technology projects intended to accelerate the commercialization of intellectual property derived from the institutions of higher education ~~[with a demonstrable economic benefit to this state].~~

SECTION 57.12. Subchapter D, Chapter 490, Government Code, is amended by adding Section 490.1521 to read as follows:

Sec. 490.1521. MINUTES OF CERTAIN MEETINGS. (a) Each regional center of innovation and commercialization established under Section 490.152, including the Texas Life Science Center for Innovation and Commercialization, shall keep minutes of each meeting at which applications for funding under this subchapter are evaluated. The minutes must:

(1) include the name of each applicant recommended by the regional center of innovation and commercialization to the committee for funding; and

(2) indicate the vote of each member of the governing body of the regional center of innovation and commercialization, including any recusal by a member and the member's reason for recusal, with regard to each application reviewed.

(b) Each regional center of innovation and commercialization shall retain a copy of the minutes of each meeting to which this section applies for at least three years.

SECTION 57.13. Section 203.021, Labor Code, is amended by adding Subsection (e) to read as follows:

(e) Money in the compensation fund may not be transferred to the:

(1) Texas Enterprise Fund created under Section 481.078, Government Code; or

(2) Texas emerging technology fund established under Section 490.101, Government Code.

SECTION 57.14. Section 204.123, Labor Code, is amended to read as follows:

Sec. 204.123. TRANSFER TO [~~TEXAS ENTERPRISE FUND,~~] SKILLS DEVELOPMENT FUND, TRAINING STABILIZATION FUND, AND COMPENSATION FUND. (a) If, on September 1 of a year, the commission determines that the amount in the compensation fund will exceed 100 percent of its floor as computed under Section 204.061 on the next October 1 computation date, the commission shall transfer from the holding fund created under Section 204.122:

(1) [~~from the first \$160 million deposited in the holding fund in any state fiscal biennium:~~

~~[(A) during the state fiscal biennium ending August 31, 2007:~~

~~[(i) 67 percent to the Texas Enterprise Fund created under Section 481.078, Government Code, except that the amount transferred under this paragraph may not exceed the amount appropriated by the legislature to the Texas Enterprise Fund in that biennium; and~~

~~[(ii) 33 percent to the skills development fund created under Section 303.003, except that the amount transferred under this paragraph may not exceed the amount appropriated by the legislature to the skills development program strategies and activities in that biennium; and~~

~~[(B) during any state fiscal biennium beginning on or after September 1, 2007, 100]~~

~~[(i) 75 percent to the Texas Enterprise Fund created under Section 481.078, Government Code, except that the amount transferred under this paragraph may not exceed the amount appropriated by the legislature to the Texas Enterprise Fund in that biennium; and~~

~~[(ii) 25] percent to the skills development fund created under Section 303.003, except that the amount transferred under this subdivision [~~paragraph~~] may not exceed the amount appropriated by the legislature to the skills development program strategies and activities in that biennium; and~~

(2) any remaining amount in the holding fund after the distribution under Subdivision (1) to the training stabilization fund created under Section 302.101.

(b) If, on September 1 of a year, the commission determines that the amount in the compensation fund will be at or below 100 percent of its floor as computed under Section 204.061 on the next October 1 computation date, the commission shall transfer to the compensation fund as much of the amount in the holding fund as is necessary to raise the amount in the compensation fund to 100 percent of its floor, up to and including the entire amount in the holding fund. The commission shall transfer any remaining balance in the holding fund to the [~~Texas Enterprise Fund, the~~] skills development fund[~~;~~] and the training stabilization fund in the manner [~~in the percentages~~] prescribed by Subsection (a).

SECTION 57.15. Subsections (b) and (c), Section 302.101, Labor Code, are amended to read as follows:

(b) Money in the training stabilization fund may be used in a year in which the amounts in the employment and training investment holding fund are insufficient to meet the legislative appropriation for that fiscal year for ~~[either the Texas Enterprise Fund or]~~ the skills development program strategies and activities.

(c) Money in the training stabilization fund shall be transferred to the ~~[Texas Enterprise Fund and the]~~ skills development fund under Subsection (b) not later than September 30. ~~[The transfer under Subsection (b) shall consist of transferring 67 percent of the money in the training stabilization fund to the Texas Enterprise Fund and 33 percent of the money in the training stabilization fund to the skills development fund.]~~ The amount transferred from the training stabilization fund may not exceed the amounts appropriated to the ~~[Texas Enterprise Fund and]~~ skills development program strategies and activities in the fiscal year in which the transfer is made.

SECTION 57.16. Sections 481.078(e) and 490.101(f), Government Code, as amended by this article, and Section 490.101(f-1), Government Code, as added by this article, apply only to a proposal for an award from the Texas Enterprise Fund or Texas emerging technology fund submitted by the governor to the lieutenant governor or speaker of the house of representatives for prior approval on or after the effective date of this article. A proposal submitted by the governor for prior approval before the effective date of this article is governed by the law in effect on the date the proposal was submitted for that approval, and the former law is continued in effect for that purpose.

SECTION 57.17. Section 481.078(j), Government Code, as amended by this article, and Sections 481.078(f-1) and (f-2), Government Code, as added by this article, apply only to a grant agreement that is entered into on or after the effective date of this article. A grant agreement that is entered into before the effective date of this article is governed by the law in effect on the date the agreement was entered into, and the former law is continued in effect for that purpose.

SECTION 57.18. (a) The terms of the members of the Texas Emerging Technology Advisory Committee serving immediately before the effective date of this article expire September 1, 2011.

(b) As soon as practicable after this article takes effect, the governor, lieutenant governor, and speaker of the house of representatives shall appoint members to the Texas Emerging Technology Advisory Committee established under Subchapter B, Chapter 490, Government Code, in a manner that complies with that subchapter, as amended by this article.

(c) At the first meeting of members of the Texas Emerging Technology Advisory Committee established under Subchapter B, Chapter 490, Government Code, as amended by this article, occurring on or after September 1, 2011, the members appointed by the governor shall draw lots to determine which six members will serve a term expiring September 1, 2012, and which seven members will serve a term expiring September 1, 2013.

Explanation: This change is necessary to reform the functions and administration of the Texas Enterprise Fund and the Texas Emerging Technology Fund.

(3) Senate Rule 12.03(4) is suspended to permit the committee to add text on a matter not included in either version of the bill by adding Section 45.02 to Article 45 of the bill amending Chapter 322, Government Code, to read as follows:

SECTION 45.02. Chapter 322, Government Code, is amended by adding Section 322.0081 to read as follows:

Sec. 322.0081. BUDGET DOCUMENTS ONLINE. (a) The board shall post on the board's Internet website documents prepared by the board that are provided to a committee, subcommittee, or conference committee of either house of the legislature in connection with an appropriations bill.

(b) The board shall post a document to which this section applies as soon as practicable after the document is provided to a committee, subcommittee, or conference committee.

(c) The document must be downloadable and provide data in a format that allows the public to search, extract, organize, and analyze the information in the document.

(d) The requirement under Subsection (a) does not supersede any exceptions provided under Chapter 552.

(e) The board shall promulgate rules to implement the provisions of this section.

Explanation: This change is necessary to provide for certain budget documents to be made available on the Internet website of the Legislative Budget Board.

(4) Senate Rule 12.03(4) is suspended to permit the committee to add text on a matter not included in either version of the bill by adding Section 56.02 to Article 56 of the bill to read as follows:

SECTION 56.02. Subsection (c), Section 171.0002, Tax Code, is amended to read as follows:

(c) "Taxable entity" does not include an entity that is:

(1) a grantor trust as defined by Sections 671 and 7701(a)(30)(E), Internal Revenue Code, all of the grantors and beneficiaries of which are natural persons or charitable entities as described in Section 501(c)(3), Internal Revenue Code, excluding a trust taxable as a business entity pursuant to Treasury Regulation Section 301.7701-4(b);

(2) an estate of a natural person as defined by Section 7701(a)(30)(D), Internal Revenue Code, excluding an estate taxable as a business entity pursuant to Treasury Regulation Section 301.7701-4(b);

(3) an escrow;

(4) a real estate investment trust (REIT) as defined by Section 856, Internal Revenue Code, and its "qualified REIT subsidiary" entities as defined by Section 856(i)(2), Internal Revenue Code, provided that:

(A) a REIT with any amount of its assets in direct holdings of real estate, other than real estate it occupies for business purposes, as opposed to holding interests in limited partnerships or other entities that directly hold the real estate, is a taxable entity; and

(B) a limited partnership or other entity that directly holds the real estate as described in Paragraph (A) is not exempt under this subdivision, without regard to whether a REIT holds an interest in it;

(5) a real estate mortgage investment conduit (REMIC), as defined by Section 860D, Internal Revenue Code;

(6) a nonprofit self-insurance trust created under Chapter 2212, Insurance Code, or a predecessor statute;

(7) a trust qualified under Section 401(a), Internal Revenue Code; ~~or~~

(8) a trust or other entity that is exempt under Section 501(c)(9), Internal Revenue Code; or

(9) an unincorporated entity organized as a political committee under the Election Code or the provisions of the Federal Election Campaign Act of 1971 (2 U.S.C. Section 431 et seq.).

Explanation: This change is necessary to ensure that certain unincorporated political committees are not considered "taxable entities" for purposes of the franchise tax.

(5) Senate Rule 12.03(4) is suspended to permit the committee to add text on a matter not included in either version of the bill by adding proposed Article 61 to read as follows:

ARTICLE 61. CERTAIN CONTRIBUTION RATE COMPUTATIONS

SECTION 61.01. Section 815.402, Government Code, is amended by adding Subsections (a-1) and (h-1) to read as follows:

(a-1) Notwithstanding Subsection (a)(1), if the state contribution to the retirement system is computed using a percentage less than 6.5 percent for the state fiscal year beginning September 1, 2011, the member's contribution is not required to be computed using a percentage equal to the percentage used to compute the state contribution for that biennium. This subsection expires September 1, 2012.

(h-1) Notwithstanding Subsection (h), if the state contribution to the law enforcement and custodial officer supplemental retirement fund is computed using a percentage less than 0.5 percent for the state fiscal year beginning September 1, 2011, the member's contribution is not required to be computed using a percentage equal to the percentage used to compute the state contribution for that biennium. This subsection expires September 1, 2012.

Explanation: This change is necessary to allow, for one year, for a difference between the percentage used for the computations of the state retirement system contributions and that used for members' retirement system contributions for certain system members.

(5) Senate Rule 12.03(4) is suspended to permit the committee to add text on a matter not included in either version of the bill by adding proposed Article 62 to read as follows:

ARTICLE 62. QUINQUENNIAL REPORTING OF CERTAIN INFORMATION FOR UNCLAIMED PROPERTY

SECTION 62.01. Subsection (a), Section 411.0111, Government Code, is amended to read as follows:

(a) Not later than June 1 of every fifth ~~each~~ year, the department shall provide to the comptroller, for the purpose of assisting the comptroller in the identification of persons entitled to unclaimed property reported to the comptroller, the name, address,

social security number, date of birth, and driver's license or state identification number of each person about whom the department has such information in its records.

SECTION 62.02. Subsection (a), Section 811.010, Government Code, as added by Chapter 232 (S.B. 1589), Acts of the 81st Legislature, Regular Session, 2009, is amended to read as follows:

(a) Not later than June 1 of every fifth ~~[each]~~ year, the retirement system shall provide to the comptroller, for the purpose of assisting the comptroller in the identification of persons entitled to unclaimed property reported to the comptroller, the name, address, social security number, and date of birth of each member, retiree, and beneficiary from the retirement system's records.

SECTION 62.03. Subsection (a), Section 821.010, Government Code, is amended to read as follows:

(a) Not later than June 1 of every fifth ~~[each]~~ year, the retirement system shall provide to the comptroller, for the purpose of assisting the comptroller in the identification of persons entitled to unclaimed property reported to the comptroller, the name, address, social security number, and date of birth of each member, retiree, and beneficiary from the retirement system's records.

SECTION 62.04. Subsection (a), Section 301.086, Labor Code, is amended to read as follows:

(a) Not later than June 1 of every fifth ~~[each]~~ year, the commission shall provide to the comptroller, for the purpose of assisting the comptroller in the identification of persons entitled to unclaimed property reported to the comptroller, the name, address, social security number, and date of birth of each person about whom the commission has such information in its records.

SECTION 62.05. The Department of Public Safety, the Employees Retirement System of Texas, the Teacher Retirement System of Texas, and the Texas Workforce Commission shall provide information to the comptroller as required by Sections 411.0111(a), 811.010(a), and 821.010(a), Government Code, and Section 301.086(a), Labor Code, as amended by this article, beginning in 2016.

Explanation: This change is necessary to provide for certain reports, filed for the purpose of assisting the comptroller of public accounts in the identification of persons entitled to unclaimed property, to be filed every fifth year instead of annually.

(6) Senate Rule 12.03(4) is suspended to permit the committee to add text on a matter not included in either version of the bill by adding proposed Article 63 to read as follows:

ARTICLE 63. AD VALOREM TAXATION OF CERTAIN STORED PROPERTY

SECTION 63.01. Subsection (a), Section 11.253, Tax Code, is amended by amending Subdivision (2) and adding Subdivisions (5) and (6) to read as follows:

(2) "Goods-in-transit" means tangible personal property that:

(A) is acquired in or imported into this state to be forwarded to another location in this state or outside this state;

(B) is stored under a contract of bailment by a public warehouse operator ~~[detained]~~ at one or more public warehouse facilities ~~[a location]~~ in this state that are not in any way owned or controlled by ~~[in which]~~ the owner of the personal

property [~~does not have a direct or indirect ownership interest~~] for the account of [~~assembling, storing, manufacturing, processing, or fabricating purposes by~~] the person who acquired or imported the property;

(C) is transported to another location in this state or outside this state not later than 175 days after the date the person acquired the property in or imported the property into this state; and

(D) does not include oil, natural gas, petroleum products, aircraft, dealer's motor vehicle inventory, dealer's vessel and outboard motor inventory, dealer's heavy equipment inventory, or retail manufactured housing inventory.

(5) "Bailee" and "warehouse" have the meanings assigned by Section 7.102, Business & Commerce Code.

(6) "Public warehouse operator" means a person that:

(A) is both a bailee and a warehouse; and

(B) stores under a contract of bailment, at one or more public warehouse facilities, tangible personal property that is owned by other persons solely for the account of those persons and not for the operator's account.

SECTION 63.02. Section 11.253, Tax Code, is amended by amending Subsections (e) and (h) and adding Subsections (j-1) and (j-2) to read as follows:

(e) In determining the market value of goods-in-transit that in the preceding year were [~~assembled,~~] stored [~~, manufactured, processed, or fabricated~~] in this state, the chief appraiser shall exclude the cost of equipment, machinery, or materials that entered into and became component parts of the goods-in-transit but were not themselves goods-in-transit or that were not transported to another location in this state or outside this state before the expiration of 175 days after the date they were brought into this state by the property owner or acquired by the property owner in this state. For component parts held in bulk, the chief appraiser may use the average length of time a component part was held by the owner of the component parts during the preceding year at a location in this state that was not owned by or under the control of the owner of the component parts in determining whether the component parts were transported to another location in this state or outside this state before the expiration of 175 days.

(h) The chief appraiser by written notice delivered to a property owner who claims an exemption under this section may require the property owner to provide copies of property records so the chief appraiser can determine the amount and value of goods-in-transit and that the location in this state where the goods-in-transit were detained for storage [~~assembling, storing, manufacturing, processing, or fabricating purposes~~] was not owned by or under the control of the owner of the goods-in-transit. If the property owner fails to deliver the information requested in the notice before the 31st day after the date the notice is delivered to the property owner, the property owner forfeits the right to claim or receive the exemption for that year.

(j-1) Notwithstanding Subsection (j) or official action that was taken under that subsection before September 1, 2011, to tax goods-in-transit exempt under Subsection (b) and not exempt under other law, a taxing unit may not tax such goods-in-transit in a tax year that begins on or after January 1, 2012, unless the governing body of the taxing unit takes action on or after September 1, 2011, in the manner required for official action by the governing body, to provide for the taxation of the

goods-in-transit. The official action to tax the goods-in-transit must be taken before January 1 of the first tax year in which the governing body proposes to tax goods-in-transit. Before acting to tax the exempt property, the governing body of the taxing unit must conduct a public hearing as required by Section 1-n(d), Article VIII, Texas Constitution. If the governing body of a taxing unit provides for the taxation of the goods-in-transit as provided by this subsection, the exemption prescribed by Subsection (b) does not apply to that unit. The goods-in-transit remain subject to taxation by the taxing unit until the governing body of the taxing unit, in the manner required for official action, rescinds or repeals its previous action to tax goods-in-transit or otherwise determines that the exemption prescribed by Subsection (b) will apply to that taxing unit.

(j-2) Notwithstanding Subsection (j-1), if under Subsection (j) the governing body of a taxing unit, before September 1, 2011, took action to provide for the taxation of goods-in-transit and pledged the taxes imposed on the goods-in-transit for the payment of a debt of the taxing unit, the tax officials of the taxing unit may continue to impose the taxes against the goods-in-transit until the debt is discharged, if cessation of the imposition would impair the obligation of the contract by which the debt was created.

SECTION 63.03. Subdivision (2), Subsection (a), Section 11.253, Tax Code, as amended by this article, applies only to an ad valorem tax year that begins on or after January 1, 2012.

SECTION 63.04. (a) Except as provided by Subsection (b) of this section, this article takes effect January 1, 2012.

(b) Section 63.02 of this article takes effect September 1, 2011.

Explanation: This change is necessary to clarify the law regarding the exemption from ad valorem taxation of certain property stored temporarily at a location in this state.

(7) Senate Rule 12.03(4) is suspended to permit the committee to add text on a matter not included in either version of the bill by adding proposed Article 64 to read as follows:

ARTICLE 64. FISCAL MATTERS CONCERNING ADVANCED PLACEMENT

SECTION 64.01. Subsection (h), Section 28.053, Education Code, is amended to read as follows:

(h) The commissioner may enter into agreements with the college board and the International Baccalaureate Organization to pay for all examinations taken by eligible public school students. An eligible student is a student ~~[one]~~ who:

(1) takes a college advanced placement or international baccalaureate course at a public school or who is recommended by the student's principal or teacher to take the test; and

(2) demonstrates financial need as determined in accordance with guidelines adopted by the board that are consistent with the definition of financial need adopted by the college board or the International Baccalaureate Organization.

Explanation: This change is necessary to provide that only students who demonstrate financial need are eligible students for the purpose of payments for certain examinations related to an advanced placement course or international baccalaureate course.

(8) Senate Rule 12.03(4) is suspended to permit the committee to add text on a matter not included in either version of the bill by adding proposed Article 65 to read as follows:

ARTICLE 65. FISCAL MATTERS CONCERNING TUITION EXEMPTIONS

SECTION 65.01. Subsection (c), Section 54.214, Education Code, is amended to read as follows:

- (c) To be eligible for an exemption under this section, a person must:
- (1) be a resident of this state;
 - (2) be a school employee serving in any capacity;
 - (3) for the initial term or semester for which the person receives an exemption under this section, have worked as an educational aide for at least one school year during the five years preceding that term or semester;
 - (4) establish financial need as determined by coordinating board rule;
 - (5) be enrolled at the institution of higher education granting the exemption in courses required for teacher certification in one or more subject areas determined by the Texas Education Agency to be experiencing a critical shortage of teachers at the public schools in this state ~~[at the institution of higher education granting the exemption]~~;
 - (6) maintain an acceptable grade point average as determined by coordinating board rule; and
 - (7) comply with any other requirements adopted by the coordinating board under this section.

SECTION 65.02. The change in law made by this article applies beginning with tuition and fees charged for the 2011 fall semester. Tuition and fees charged for a term or semester before the 2011 fall semester are covered by the law in effect during the term or semester for which the tuition and fees are charged, and the former law is continued in effect for that purpose.

Explanation: This change is necessary to provide for targeting tuition exemptions to course work in subject areas for which there is a shortage of teachers.

(9) Senate Rule 12.03(4) is suspended to permit the committee to add text on a matter not included in either version of the bill by adding proposed Article 66 to read as follows:

ARTICLE 66. FISCAL MATTERS CONCERNING DUAL HIGH SCHOOL
AND JUNIOR COLLEGE CREDIT

SECTION 66.01. Subsection (c), Section 130.008, Education Code, is amended to read as follows:

- (c) The contact hours attributable to the enrollment of a high school student in a course offered for joint high school and junior college credit under this section, excluding a course for which the student attending high school may receive course credit toward the physical education curriculum requirement under Section 28.002(a)(2)(C), shall be included in the contact hours used to determine the junior college's proportionate share of the state money appropriated and distributed to public junior colleges under Sections 130.003 and 130.0031, even if the junior college waives all or part of the tuition or fees for the student under Subsection (b).

SECTION 66.02. This article applies beginning with funding for the 2011 fall semester.

Explanation: This change is necessary to prevent junior colleges from receiving state funding for high school students enrolled for dual credit in physical education courses.

(10) Senate Rule 12.03(4) is suspended to permit the committee to add text on a matter not included in either version of the bill by adding proposed Article 67 to read as follows:

ARTICLE 67. CLASSIFICATION OF ENTITIES AS ENGAGED IN RETAIL
TRADE FOR PURPOSES OF THE FRANCHISE TAX

SECTION 67.01. Subdivision (12), Section 171.0001, Tax Code, is amended to read as follows:

(12) "Retail trade" means:

(A) the activities described in Division G of the 1987 Standard Industrial Classification Manual published by the federal Office of Management and Budget; and

(B) apparel rental activities classified as Industry 5999 or 7299 of the 1987 Standard Industrial Classification Manual published by the federal Office of Management and Budget.

SECTION 67.02. This article applies only to a report originally due on or after the effective date of this Act.

SECTION 67.03. This article takes effect January 1, 2012.

Explanation: This change is necessary to clarify the treatment of clothing rental businesses for purposes of the franchise tax.

(11) Senate Rule 12.03(4) is suspended to permit the committee to add text on a matter not included in either version of the bill by adding proposed Article 68 to read as follows:

ARTICLE 68. RETENTION OF CERTAIN FOUNDATION SCHOOL
FUND PAYMENTS

SECTION 68.01. Subchapter E, Chapter 42, Education Code, is amended by adding Section 42.2511 to read as follows:

Sec. 42.2511. AUTHORIZATION FOR CERTAIN DISTRICTS TO RETAIN ADDITIONAL STATE AID. (a) This section applies only to a school district that was provided with state aid under former Section 42.2516 for the 2009-2010 or 2010-2011 school year based on the amount of aid to which the district would have been entitled under that section if Section 42.2516(g), as it existed on January 1, 2009, applied to determination of the amount to which the district was entitled for that school year.

(b) Notwithstanding any other law, a district to which this section applies may retain the state aid provided to the district as described by Subsection (a).

(c) This section expires September 1, 2013.

SECTION 68.02. It is the intent of the legislature that the authorization provided by Section 42.2511, Education Code, as added by this article, to retain state aid described by that section is not affected by the expiration of that provision on September 1, 2013.

Explanation: This change is necessary to allow school districts that adopted a tax rate lower than the applicable compressed tax rate to retain additional state aid for tax reduction that was received in the 2009-2010 or 2010-2011 school year.

(12) Senate Rule 12.03(4) is suspended to permit the committee to add text on a matter not included in either version of the bill by adding proposed Article 69 to read as follows:

ARTICLE 69. THE STATE COMPRESSION PERCENTAGE

SECTION 69.01. Section 42.2516, Education Code, is amended by adding Subsection (b-2) to read as follows:

(b-2) If a school district adopts a maintenance and operations tax rate that is below the rate equal to the product of the state compression percentage multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year, the commissioner shall reduce the district's entitlement under this section in proportion to the amount by which the adopted rate is less than the rate equal to the product of the state compression percentage multiplied by the rate adopted by the district for the 2005 tax year. The reduction required by this subsection applies beginning with the maintenance and operations tax rate adopted for the 2009 tax year.

Explanation: This change is necessary to provide for a reduced amount of additional state aid for tax reduction to a school district that adopts a tax rate lower than the applicable compressed tax rate.

(13) Senate Rule 12.03(4) is suspended to permit the committee to add text on a matter not included in either version of the bill by adding proposed Article 70 to read as follows:

ARTICLE 70. TEXAS GUARANTEED STUDENT LOAN CORPORATION;
BOARD OF DIRECTORS

SECTION 70.01. Subsections (a) and (b), Section 57.13, Education Code, are amended to read as follows:

(a) The corporation is governed by a board of nine ~~four~~ directors in accordance with this section.

(b) The governor, with the advice and consent of the senate, shall appoint the ~~four~~ members of ~~to~~ the board as follows:

(1) four ~~five~~ members who must have knowledge of or experience in finance, including management of funds or business operations;

(2) one member who must be a student enrolled at a postsecondary educational institution for the number of credit hours required by the institution to be classified as a full-time student of the institution; and

(3) four members who must be members the faculty or administration of a ~~an eligible~~ postsecondary educational institution that is an eligible institution for purposes of the Higher Education Act of 1965, as amended, ~~as defined by Section 57.46~~.

SECTION 70.02. Section 57.17, Education Code, is amended to read as follows:

Sec. 57.17. OFFICERS. The governor shall designate the chairman from among the board's membership. The board shall elect from among its members a ~~chairman,~~ vice-chairman~~[-]~~ and other officers that the board considers necessary. The chairman and vice-chairman serve for a term of one year and may be redesignated or reelected, as applicable.

SECTION 70.03. Subsection (d), Section 57.13, Education Code, is repealed.

Explanation: This change is necessary to reform the governance of the Texas Guaranteed Student Loan Corporation.

(14) Senate Rule 12.03(4) is suspended to permit the committee to add text on a matter not included in either version of the bill by adding proposed Article 71 to read as follows:

ARTICLE 71. DRIVER'S LICENSES AND PERSONAL IDENTIFICATION
CERTIFICATES

SECTION 71.01. Subchapter A, Chapter 521, Transportation Code, is amended by adding Section 521.007 to read as follows:

Sec. 521.007. SECURITY, VALIDITY, AND EFFICIENCY STUDY.

(a) Notwithstanding any other law, the commission shall study procedures and requirements necessary or advisable to ensure the security, validity, and efficiency of driver's licenses and personal identification certificates issued under this chapter. The study must include an analysis of potential cost savings, revenue issues, and other fiscal matters related to the issuance of the license and certificates. The commission shall adopt rules to implement any procedures or requirements the commission finds are necessary or advisable.

(b) Notwithstanding any other law, the commission by rule may specify the term of a driver's license or personal identification certificate issued under this chapter.

SECTION 71.02. The legislature declares that the Department of Public Safety had the statutory authority to adopt the rules regarding driver's licenses and personal identification certificates that are in effect on the effective date of this article and that the rules are valid.

SECTION 71.03. This article takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for this article to have immediate effect, this article takes effect September 1, 2011.

Explanation: This change is necessary to identify procedures and requirements to ensure the security, validity, and efficiency of driver's licenses and personal identification certificates, to identify the potential cost savings, revenue issues, and other fiscal matters related to the issuance of license and certificates, to provide for authority for rules to specify the terms of licenses and certificates, and to validate certain rules previously adopted regarding driver's licenses and personal identification certificates.

(15) Senate Rule 12.03(4) is suspended to permit the committee to add text on a matter not included in either version of the bill by adding proposed Article 72 to read as follows:

ARTICLE 72. FISCAL MATTERS CONCERNING LEASES OF PUBLIC LAND
FOR MINERAL DEVELOPMENT

SECTION 72.01. Subsections (a) and (c), Section 85.66, Education Code, are amended to read as follows:

(a) If oil or other minerals are developed on any of the lands leased by the board, the royalty or money as stipulated in the sale shall be paid to the general land office at Austin on or before the last day of each month for the preceding month during the life of the rights purchased, and shall be set aside ~~[in the state treasury]~~ as specified in Section 85.70 ~~[of this code]~~. The royalty or money paid to the general land office shall

be accompanied by the sworn statement of the owner, manager, or other authorized agent showing the gross amount of oil, gas, sulphur, mineral ore, and other minerals produced and saved since the last report, the amount of oil, gas, sulphur, mineral ore, and other minerals produced and sold off the premises, and the market value of the oil, gas, sulphur, mineral ore, and other minerals, together with a copy of all daily gauges, or vats, tanks, gas meter readings, pipeline receipts, gas line receipts and other checks and memoranda of the amounts produced and put into pipelines, tanks, vats, or pool and gas lines, gas storage, other places of storage, and other means of transportation.

(c) The commissioner of the general land office shall tender to the board on or before the 10th day of each month a report of all receipts that are collected from the lease or sale of oil, gas, sulphur, mineral ore, and other minerals and that are deposited ~~turned into the state treasury,~~ as provided by Section 85.70 during ~~[of this code, of]~~ the preceding month.

SECTION 72.02. Section 85.69, Education Code, is amended to read as follows:

Sec. 85.69. PAYMENTS; DISPOSITION. Payments under this subchapter shall be made to the commissioner of the general land office at Austin, who shall transmit to the board ~~comptroller~~ all royalties, lease fees, rentals for delay in drilling or mining, and all other payments, including all filing assignments and relinquishment fees, to be deposited ~~[in the state treasury]~~ as provided by Section 85.70 ~~[of this code]~~.

SECTION 72.03. Section 85.70, Education Code, is amended to read as follows:

Sec. 85.70. CERTAIN MINERAL LEASES; DISPOSITION OF MONEY; SPECIAL FUNDS; INVESTMENT. (a) Except as provided by Subsection (c) ~~[of this section]~~, all money received under and by virtue of this subchapter shall be deposited in ~~[the state treasury to the credit of]~~ a special fund managed by the board to be known as The Texas A&M University System Special Mineral Investment Fund. Money in the fund is considered to be institutional funds, as defined by Section 51.009, of the system and its component institutions. The ~~[With the approval of the comptroller, the board of regents of The Texas A&M University System may appoint one or more commercial banks, depository trust companies, or other entities to serve as custodian or custodians of the Special Mineral Investment Fund's securities with authority to hold the money realized from those securities pending completion of an investment transaction if the money held is reinvested within one business day of receipt in investments determined by the board of regents. Money not reinvested within one business day of receipt shall be deposited in the state treasury not later than the fifth day after the date of receipt. In the judgment of the board, this]~~ special fund may be invested so as to produce ~~[an]~~ income which may be expended under the direction of the board for the general use of any component of The Texas A&M University System, including erecting permanent improvements and in payment of expenses incurred in connection with the administration of this subchapter. The unexpended income likewise may be invested as ~~herein~~ provided by this section.

(b) The income from the investment of the special mineral investment fund created by ~~under~~ Subsection (a) ~~[of this section]~~ shall be deposited in [to the credit of] a fund managed by the board to be known as The Texas A&M University System

Special Mineral Income Fund, and is considered to be institutional funds, as defined by Section 51.009, of the system and its component institutions ~~[shall be appropriated by the legislature exclusively for the university system for the purposes herein provided].~~

(c) The board shall lease for oil, gas, sulphur, or other mineral development, as prescribed by this subchapter, all or part of the land under the exclusive control of the board owned by the State of Texas and acquired for the use of Texas A&M University–Kingsville and its divisions. Any money received by the board concerning such land under this subchapter shall be deposited in ~~[the state treasury to the credit of]~~ a special fund managed by the board to be known as the Texas A&M University–Kingsville special mineral fund. Money in the fund is considered to be institutional funds, as defined by Section 51.009, of the university and is[.] to be used exclusively for the university [Texas A&M University–Kingsville] and its branches and divisions. [Money may not be expended from this fund except as authorized by the general appropriations act.]

(d) All deposits in and investments of the fund under this section shall be made in accordance with Section 51.0031.

(e) Section 34.017, Natural Resources Code, does not apply to funds created by this section.

SECTION 72.04. Subsection (b), Section 95.36, Education Code, is amended to read as follows:

(b) Except as provided in Subsection (c) of this section, any money received by virtue of this section and the income from the investment of such money shall be deposited in ~~[the State Treasury to the credit of]~~ a special fund managed by the board to be known as the Texas State University System special mineral fund. Money in the fund is considered to be institutional funds, as defined by Section 51.009, of the system and its component institutions and is[.] to be used exclusively for those entities. All deposits in and investments of the fund shall be made in accordance with Section 51.0031. Section 34.017, Natural Resources Code, does not apply to the fund [the university system and the universities in the system. However, no money shall ever be expended from this fund except as authorized by the General Appropriations Act].

SECTION 72.05. Subsection (b), Section 109.61, Education Code, is amended to read as follows:

(b) Any money received by virtue of this section shall be deposited in ~~[the state treasury to the credit of]~~ a special fund managed by the board to be known as the Texas Tech University special mineral fund. Money in the fund is considered to be institutional funds, as defined by Section 51.009, of the university and is[.] to be used exclusively for the university and its branches and divisions. All deposits in and investments of the fund shall be made in accordance with Section 51.0031. Section 34.017, Natural Resources Code, does not apply to the fund. [However, no money shall ever be expended from this fund except as authorized by the general appropriations act.]

SECTION 72.06. Subsections (a) and (c), Section 109.75, Education Code, are amended to read as follows:

(a) If oil or other minerals are developed on any of the lands leased by the board, the royalty as stipulated in the sale shall be paid to the general land office in Austin on or before the last day of each month for the preceding month during the life of the rights purchased. The royalty payments shall be set aside [~~in the state treasury~~] as specified in Section 109.61 [~~of this code~~] and used as provided in that section.

(c) The commissioner of the general land office shall tender to the board on or before the 10th day of each month a report of all receipts that are collected from the lease or sale of oil, gas, sulphur, or other minerals and that are deposited in [~~turned into~~] the special fund as provided by Section 109.61 [~~in the state treasury~~] during the preceding month.

SECTION 72.07. Subsection (b), Section 109.78, Education Code, is amended to read as follows:

(b) Payment of all royalties, lease fees, rentals for delay in drilling or mining, filing fees for assignments and relinquishments, and all other payments shall be made to the commissioner of the general land office at Austin. The commissioner shall transmit all payments received to the board [~~comptroller~~] for deposit to the credit of the Texas Tech University special mineral fund as provided by Section 109.61.

SECTION 72.08. Section 85.72, Education Code, is repealed.

SECTION 72.09. This article takes effect September 1, 2011.

Explanation: This change is necessary to provide for certain mineral income for the Texas A&M University System, Texas Tech University, and the Texas State University System to be treated similarly to mineral income for other institutions of higher education.

(16) Senate Rule 12.03(4) is suspended to permit the committee to add text on a matter not included in either version of the bill by adding proposed Article 73 to read as follows:

ARTICLE 73. FOUNDATION SCHOOL PROGRAM FINANCING; CERTAIN
TAX INCREMENT FUND REPORTING MATTERS

SECTION 73.01. (a) This section applies only to a school district that, before May 1, 2011, received from the commissioner of education a notice of a reduction in state funding for the 2004-2005, 2005-2006, 2006-2007, 2007-2008, and 2008-2009 school years based on the district's reporting related to deposits of taxes into a tax increment fund under Chapter 311, Tax Code.

(b) Notwithstanding any other law, including Section 42.302(b)(2), Education Code, the commissioner of education shall reduce by one-half the amounts of the reduction of entitlement amounts computed for purposes of adjusting entitlement amounts to account for taxes deposited into a tax increment fund for any of the school years described by Subsection (a) of this section.

(c) This section expires September 1, 2013.

Explanation: This change is necessary to provide for the proper adjustment of foundation school program entitlement amounts in cases of reductions resulting from tax increment fund deposit reporting for certain school years by certain school districts.

(17) Senate Rule 12.03(4) is suspended to permit the committee to add text on a matter not included in either version of the bill by adding proposed Article 74 to the bill to read as follows:

ARTICLE 74. CRIMINAL BACKGROUND CHECKS FOR CERTAIN
 INTERSCHOLASTIC SPORTS OFFICIALS

SECTION 74.01. Subchapter D, Chapter 33, Education Code, is amended by adding Section 33.085 to read as follows:

Sec. 33.085. CRIMINAL BACKGROUND CHECKS FOR SPORTS OFFICIALS; COST RECOVERY. (a) In this section, "sports official" means a person who officiates, judges, or otherwise enforces contest rules in an official capacity for athletic competition. The term includes a referee, umpire, linesman, side judge, and back judge.

(b) The University Interscholastic League by rule may require a person to have a criminal background check conducted by the league as a precondition of acting as a sports official for interscholastic athletic competition.

(c) The University Interscholastic League may refuse to allow a person to act as a sports official for interscholastic athletic competition if a criminal background check conducted under league rules reveals a conviction of:

(1) an offense involving moral turpitude;

(2) an offense involving a form of sexual or physical abuse of a minor or student or other illegal conduct in which the victim is a minor or student;

(3) a felony offense involving the possession, transfer, sale, or distribution of or conspiracy to possess, transfer, sell, or distribute a controlled substance, as defined by Chapter 481, Health and Safety Code, or by 21 U.S.C. Section 801 et seq.;

(4) an offense involving the illegal transfer, appropriation, or use of school district funds or other district property; or

(5) an offense involving an attempt by fraudulent or unauthorized means to obtain or alter registration to serve as a sports official for interscholastic athletic competition.

(d) An interscholastic athletic league by rule may establish a cost recovery program to offset any costs the league incurs as a result of the implementation of this section.

Explanation: This change is necessary to provide for criminal background checks for certain sports officials for interscholastic athletic competition and for the recovery of costs associated with the program incurred by an interscholastic athletic league.

(18) Senate Rule 12.03(4) is suspended to permit the committee to add text on a matter not included in either version of the bill by adding proposed Article 75 to the bill to read as follows:

ARTICLE 75. FISCAL MATTERS RELATING TO PUBLIC SCHOOL FINANCE

SECTION 75.01. Effective September 1, 2011, Section 12.106, Education Code, is amended by amending Subsection (a) and adding Subsection (a-3) to read as follows:

(a) A charter holder is entitled to receive for the open-enrollment charter school funding under Chapter 42 equal to the greater of:

(1) the percentage specified by Section 42.2516(i) multiplied by the amount of funding per student in weighted average daily attendance, excluding enrichment funding under Sections 42.302(a-1)(2) and (3), as they existed on January 1, 2009, that would have been received for the school during the 2009-2010 school year under

Chapter 42 as it existed on January 1, 2009, and an additional amount of the percentage specified by Section 42.2516(i) multiplied by \$120 for each student in weighted average daily attendance; or

(2) the amount of funding per student in weighted average daily attendance, excluding enrichment funding under Section 42.302(a), to which the charter holder would be entitled for the school under Chapter 42 if the school were a school district without a tier one local share for purposes of Section 42.253 and without any local revenue for purposes of Section 42.2516.

(a-3) In determining funding for an open-enrollment charter school under Subsection (a), the commissioner shall apply the regular program adjustment factor provided under Section 42.101 to calculate the regular program allotment to which a charter school is entitled.

SECTION 75.02. Effective September 1, 2017, Subsection (a), Section 12.106, Education Code, is amended to read as follows:

(a) A charter holder is entitled to receive for the open-enrollment charter school funding under Chapter 42 equal to [the greater of:

~~[(1) the amount of funding per student in weighted average daily attendance, excluding enrichment funding under Sections 42.302(a 1)(2) and (3), as they existed on January 1, 2009, that would have been received for the school during the 2009-2010 school year under Chapter 42 as it existed on January 1, 2009, and an additional amount of \$120 for each student in weighted average daily attendance; or~~

~~[(2)]~~ the amount of funding per student in weighted average daily attendance, excluding enrichment funding under Section 42.302(a), to which the charter holder would be entitled for the school under Chapter 42 if the school were a school district without a tier one local share for purposes of Section 42.253 ~~[and without any local revenue for purposes of Section 42.2516].~~

SECTION 75.03. Effective September 1, 2011, Section 21.402, Education Code, is amended by amending Subsections (a), (b), (c), and (c-1) and adding Subsection (i) to read as follows:

(a) Except as provided by Subsection (d)~~[-(e)],~~ or (f), a school district must pay each classroom teacher, full-time librarian, full-time counselor certified under Subchapter B, or full-time school nurse not less than the minimum monthly salary, based on the employee's level of experience in addition to other factors, as determined by commissioner rule, determined by the following formula:

$$MS = SF \times FS$$

where:

"MS" is the minimum monthly salary;

"SF" is the applicable salary factor specified by Subsection (c); and

"FS" is the amount, as determined by the commissioner under Subsection (b), of the basic allotment as provided by Section 42.101 (a) or (b) for a school district with a maintenance and operations tax rate at least equal to the state maximum compressed tax rate, as defined by Section 42.101 (a) [state and local funds per weighted student, including funds provided under Section 42.2516, available to a district eligible to receive state assistance under Section 42.302 with a maintenance and operations tax rate per \$100 of taxable value equal to the product of the state compression percentage, as determined under Section 42.2516, multiplied by \$1.50, except that the

~~amount of state and local funds per weighted student does not include the amount attributable to the increase in the guaranteed level made by Chapter 1187, Acts of the 77th Legislature, Regular Session, 2001].~~

(b) Not later than June 1 of each year, the commissioner shall determine the basic allotment and resulting monthly salaries to be paid by school districts as provided by Subsection (a) ~~[amount of state and local funds per weighted student available, for purposes of Subsection (a), to a district described by that subsection for the following school year].~~

(c) The salary factors per step are as follows:

Years Experience	0	1	2	3	4
Salary Factor	<u>.5464</u> [.6226]	<u>.5582</u> [.6260]	<u>.5698</u> [.6492]	<u>.5816</u> [.6627]	<u>.6064</u> [.6909]
Years Experience	5	6	7	8	9
Salary Factor	<u>.6312</u> [.7492]	<u>.6560</u> [.7474]	<u>.6790</u> [.7737]	<u>.7008</u> [.7985]	<u>.7214</u> [.8220]
Years Experience	10	11	12	13	14
Salary Factor	<u>.7408</u> [.8444]	<u>.7592</u> [.8650]	<u>.7768</u> [.8854]	<u>.7930</u> [.9035]	<u>.8086</u> [.9213]
Years Experience	15	16	17	18	19
Salary Factor	<u>.8232</u> [.9380]	<u>.8372</u> [.9539]	<u>.8502</u> [.9687]	<u>.8626</u> [.9828]	<u>.8744</u> [.9963]
Years Experience	20	and	over		
Salary Factor	<u>.8854</u> [1.009]				

(c-1) Notwithstanding Subsections [Subsection] (a) and (b)~~[, for the 2009-2010 and 2010-2011 school years]~~, each school district shall pay a monthly salary to ~~[increase the monthly salary of]~~ each classroom teacher, full-time speech pathologist, full-time librarian, full-time counselor certified under Subchapter B, and full-time school nurse that is at least equal to the following monthly salary or the monthly salary determined by the commissioner under Subsections (a) and (b), whichever is ~~[by the] greater [of]~~:

<u>Years of Experience</u>	<u>Monthly Salary</u>
<u>0</u>	<u>2,732</u>
<u>1</u>	<u>2,791</u>
<u>2</u>	<u>2,849</u>
<u>3</u>	<u>2,908</u>
<u>4</u>	<u>3,032</u>
<u>5</u>	<u>3,156</u>
<u>6</u>	<u>3,280</u>
<u>7</u>	<u>3,395</u>
<u>8</u>	<u>3,504</u>
<u>9</u>	<u>3,607</u>

<u>10</u>	<u>3,704</u>
<u>11</u>	<u>3,796</u>
<u>12</u>	<u>3,884</u>
<u>13</u>	<u>3,965</u>
<u>14</u>	<u>4,043</u>
<u>15</u>	<u>4,116</u>
<u>16</u>	<u>4,186</u>
<u>17</u>	<u>4,251</u>
<u>18</u>	<u>4,313</u>
<u>19</u>	<u>4,372</u>
<u>20 & Over</u>	<u>4,427</u>

~~[(1) \$80; or~~

~~[(2) the maximum uniform amount that, when combined with any resulting increases in the amount of contributions made by the district for social security coverage for the specified employees or by the district on behalf of the specified employees under Section 825.405, Government Code, may be provided using an amount equal to the product of \$60 multiplied by the number of students in weighted average daily attendance in the school during the 2009-2010 school year.]~~

(i) Not later than January 1, 2013, the commissioner shall submit to the governor, the lieutenant governor, the speaker of the house of representatives, and the presiding officer of each legislative standing committee with primary jurisdiction over primary and secondary education a written report that evaluates and provides recommendations regarding the salary schedule. This subsection expires September 1, 2013.

SECTION 75.04. Effective September 1, 2017, Section 21.402, Education Code, is amended by amending Subsection (a) and adding Subsection (e-1) to read as follows:

(a) Except as provided by Subsection (d), ~~(e-1) [(e)],~~ or (f), a school district must pay each classroom teacher, full-time librarian, full-time counselor certified under Subchapter B, or full-time school nurse not less than the minimum monthly salary, based on the employee's level of experience in addition to other factors, as determined by commissioner rule, determined by the following formula:

$$MS = SF \times FS$$

where:

"MS" is the minimum monthly salary;

"SF" is the applicable salary factor specified by Subsection (c); and

"FS" is the amount, as determined by the commissioner under Subsection (b), of the basic allotment as provided by Section 42.101(a) or (b) for a school district with a maintenance and operation tax rate at least equal to the state maximum compressed tax rate, as defined by Section 42.101(a) [state and local funds per weighted student, including funds provided under Section 42.2516, available to a district eligible to receive state assistance under Section 42.302 with a maintenance and operations tax rate per \$100 of taxable value equal to the product of the state compression percentage, as determined under Section 42.2516, multiplied by \$1.50, except that the

~~amount of state and local funds per weighted student does not include the amount attributable to the increase in the guaranteed level made by Chapter 1187, Acts of the 77th Legislature, Regular Session, 2001].~~

(e-1) If the minimum monthly salary determined under Subsection (a) for a particular level of experience is less than the minimum monthly salary for that level of experience in the preceding year, the minimum monthly salary is the minimum monthly salary for the preceding year.

SECTION 75.05. Subsection (a), Section 41.002, Education Code, is amended to read as follows:

(a) A school district may not have a wealth per student that exceeds:

(1) the wealth per student that generates the amount of maintenance and operations tax revenue per weighted student available to a district with maintenance and operations tax revenue per cent of tax effort equal to the maximum amount provided per cent under Section 42.101(a) or (b) ~~[42.101]~~, for the district's maintenance and operations tax effort equal to or less than the rate equal to the product of the state compression percentage, as determined under Section 42.2516, multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year;

(2) the wealth per student that generates the amount of maintenance and operations tax revenue per weighted student available to the Austin Independent School District, as determined by the commissioner in cooperation with the Legislative Budget Board, for the first six cents by which the district's maintenance and operations tax rate exceeds the rate equal to the product of the state compression percentage, as determined under Section 42.2516, multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year, subject to Section 41.093(b-1); or

(3) \$319,500, for the district's maintenance and operations tax effort that exceeds the first six cents by which the district's maintenance and operations tax effort exceeds the rate equal to the product of the state compression percentage, as determined under Section 42.2516, multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year.

SECTION 75.06. The heading to Section 42.101, Education Code, is amended to read as follows:

Sec. 42.101. BASIC AND REGULAR PROGRAM ALLOTMENTS ~~[ALLOTMENT]~~.

SECTION 75.07. Section 42.101, Education Code, is amended by amending Subsections (a) and (b) and adding Subsections (c) and (c-1) to read as follows:

(a) The basic ~~[For each student in average daily attendance, not including the time students spend each day in special education programs in an instructional arrangement other than mainstream or career and technology education programs, for which an additional allotment is made under Subchapter C, a district is entitled to an]~~ allotment is an amount equal to the lesser of \$4,765 or the amount that results from the following formula:

$$A = \$4,765 \times (\text{DCR}/\text{MCR})$$

where:

"A" is the resulting amount for ~~[allotment to which]~~ a district ~~[is entitled]~~;

"DCR" is the district's compressed tax rate, which is the product of the state compression percentage, as determined under Section 42.2516, multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year; and

"MCR" is the state maximum compressed tax rate, which is the product of the state compression percentage, as determined under Section 42.2516, multiplied by \$1.50.

(b) A greater amount for any school year for the basic allotment under Subsection (a) may be provided by appropriation.

(c) A school district is entitled to a regular program allotment equal to the amount that results from the following formula:

$$\text{RPA} = \text{ADA} \times \text{AA} \times \text{RPAF}$$

where:

"RPA" is the regular program allotment to which the district is entitled;

"ADA" is the number of students in average daily attendance in a district, not including the time students spend each day in special education programs in an instructional arrangement other than mainstream or career and technology education programs, for which an additional allotment is made under Subchapter C;

"AA" is the district's adjusted basic allotment, as determined under Section 42.102 and, if applicable, as further adjusted under Section 42.103; and

"RPAF" is the regular program adjustment factor, which is an amount established by appropriation.

(c-1) Notwithstanding Subsection (c), the regular program adjustment factor ("RPAF") is 0.9239 for the 2011-2012 school year and 0.98 for the 2012-2013 school year. This subsection expires September 1, 2013.

SECTION 75.08. Section 42.105, Education Code, is amended to read as follows:

Sec. 42.105. SPARSITY ADJUSTMENT. Notwithstanding Sections 42.101, 42.102, and 42.103, a school district that has fewer than 130 students in average daily attendance shall be provided a regular program [~~an adjusted basic~~] allotment on the basis of 130 students in average daily attendance if it offers a kindergarten through grade 12 program and has preceding or current year's average daily attendance of at least 90 students or is 30 miles or more by bus route from the nearest high school district. A district offering a kindergarten through grade 8 program whose preceding or current year's average daily attendance was at least 50 students or which is 30 miles or more by bus route from the nearest high school district shall be provided a regular program [~~an adjusted basic~~] allotment on the basis of 75 students in average daily attendance. An average daily attendance of 60 students shall be the basis of providing the regular program [~~adjusted basic~~] allotment if a district offers a kindergarten through grade 6 program and has preceding or current year's average daily attendance of at least 40 students or is 30 miles or more by bus route from the nearest high school district.

SECTION 75.09. Subsection (a), Section 42.251, Education Code, is amended to read as follows:

(a) The sum of the regular program ~~[basic]~~ allotment under Subchapter B and the special allotments under Subchapter C, computed in accordance with this chapter, constitute the tier one allotments. The sum of the tier one allotments and the guaranteed yield allotments under Subchapter F, computed in accordance with this chapter, constitute the total cost of the Foundation School Program.

SECTION 75.10. Subchapter E, Chapter 42, Education Code, is amended by adding Section 42.2514 to read as follows:

Sec. 42.2514. ADDITIONAL STATE AID FOR TAX INCREMENT FINANCING PAYMENTS. For each school year, a school district, including a school district that is otherwise ineligible for state aid under this chapter, is entitled to state aid in an amount equal to the amount the district is required to pay into the tax increment fund for a reinvestment zone under Section 311.013(n), Tax Code.

SECTION 75.11. Effective September 1, 2011, Section 42.2516, Education Code, is amended by amending Subsections (a), (b), (d), and (f-2) and adding Subsection (i) to read as follows:

(a) In this title ~~[section]~~, "state compression percentage" means the percentage~~], as determined by the commissioner,~~ of a school district's adopted maintenance and operations tax rate for the 2005 tax year that serves as the basis for state funding ~~[for tax rate reduction under this section]~~. If the state compression percentage is not established by appropriation for a school year, the ~~[The]~~ commissioner shall determine the state compression percentage for each school year based on the percentage by which a district is able to reduce the district's maintenance and operations tax rate for that year, as compared to the district's adopted maintenance and operations tax rate for the 2005 tax year, as a result of state funds appropriated for distribution under this section for that year from the property tax relief fund established under Section 403.109, Government Code, or from another funding source available for school district property tax relief.

(b) Notwithstanding any other provision of this title, a school district that imposes a maintenance and operations tax at a rate at least equal to the product of the state compression percentage multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year is entitled to at least the amount of state revenue necessary to provide the district with the sum of:

(1) the percentage specified by Subsection (i) of the amount, as calculated under Subsection (e), ~~[the amount]~~ of state and local revenue per student in weighted average daily attendance for maintenance and operations that the district would have received during the 2009-2010 school year under Chapter 41 and this chapter, as those chapters existed on January 1, 2009, at a maintenance and operations tax rate equal to the product of the state compression percentage for that year multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year;

(2) the percentage specified by Subsection (i) of an amount equal to the product of \$120 multiplied by the number of students in weighted average daily attendance in the district; and

(3) ~~[an amount equal to the amount the district is required to pay into the tax increment fund for a reinvestment zone under Section 311.013(n), Tax Code, in the current tax year; and~~

~~[(4)]~~ any amount to which the district is entitled under Section 42.106.

(d) In determining the amount to which a district is entitled under Subsection (b)(1), the commissioner shall:

(1) include the percentage specified by Subsection (i) of any amounts received by the district during the 2008-2009 school year under Rider 86, page III-23, Chapter 1428 (H.B. 1), Acts of the 80th Legislature, Regular Session, 2007 (the General Appropriations Act); and

(2) for a school district that paid tuition under Section 25.039 during the 2008-2009 school year, reduce the amount to which the district is entitled by the amount of tuition paid during that school year.

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

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

(2) require an increase or reduction in the amount of state revenue to which a school district is entitled under Subsection (b)(1) [~~(b)~~] that is substantially equivalent to any change in total state revenue or the cost of purchasing attendance credits that would apply to the district if this section did not exist.

(i) The percentage to be applied for purposes of Subsections (b)(1) and (2) and Subsection (d)(1) is 100.00 percent for the 2011-2012 school year and 92.35 percent for the 2012-2013 school year. For the 2013-2014 school year and each subsequent school year, the legislature by appropriation shall establish the percentage reduction to be applied.

SECTION 75.12. Effective September 1, 2017, the heading to Section 42.2516, Education Code, is amended to read as follows:

Sec. 42.2516. STATE COMPRESSION PERCENTAGE [~~ADDITIONAL STATE AID FOR TAX REDUCTION~~].

SECTION 75.13. Effective September 1, 2017, Subsection (a), Section 42.2516, Education Code, is amended to read as follows:

(a) In this title [~~section~~], "state compression percentage" means the percentage [~~as determined by the commissioner,~~] of a school district's adopted maintenance and operations tax rate for the 2005 tax year that serves as the basis for state funding [~~for tax rate reduction under this section~~]. If the state compression percentage is not established by appropriation for a school year, the [The] commissioner shall determine the state compression percentage for each school year based on the percentage by which a district is able to reduce the district's maintenance and operations tax rate for that year, as compared to the district's adopted maintenance and operations tax rate for the 2005 tax year, as a result of state funds appropriated for [distribution under this section for] that year from the property tax relief fund established under Section 403.109, Government Code, or from another funding source available for school district property tax relief.

SECTION 75.14. Effective September 1, 2011, Subsection (a), Section 42.25161, Education Code, is amended to read as follows:

(a) The commissioner shall provide South Texas Independent School District with the amount of state aid necessary to ensure that the district receives an amount of state and local revenue per student in weighted average daily attendance that is at least the percentage specified by Section 42.2516(i) of \$120 greater than the amount the district would have received per student in weighted average daily attendance during the 2009-2010 school year under this chapter, as it existed on January 1, 2009, at a maintenance and operations tax rate equal to the product of the state compression percentage multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year, provided that the district imposes a maintenance and operations tax at that rate.

SECTION 75.15. Subchapter E, Chapter 42, Education Code, is amended by adding Section 42.2525 to read as follows:

Sec. 42.2525. ADJUSTMENTS FOR CERTAIN DEPARTMENT OF DEFENSE DISTRICTS. The commissioner is granted the authority to ensure that Department of Defense school districts do not receive more than an eight percent reduction should the federal government reduce appropriations to those schools.

SECTION 75.16. Effective September 1, 2011, Subsections (h) and (i), Section 42.253, Education Code, are amended to read as follows:

(h) If the amount appropriated for the Foundation School Program for the second year of a state fiscal biennium is less than the amount to which school districts are entitled for that year, the commissioner shall certify the amount of the difference to the Legislative Budget Board not later than January 1 of the second year of the state fiscal biennium. The Legislative Budget Board shall propose to the legislature that the certified amount be transferred to the foundation school fund from the economic stabilization fund and appropriated for the purpose of increases in allocations under this subsection. If the legislature fails during the regular session to enact the proposed transfer and appropriation and there are not funds available under Subsection (j), the commissioner shall adjust [reduce] the total amounts due to each school district under this chapter and the total amounts necessary for each school district to comply with the requirements of Chapter 41 [amount of state funds allocated to each district] by an amount determined by applying to each district, including a district receiving funds under Section 42.2516, the same percentage adjustment so that the total amount of the adjustment to all districts [a method under which the application of the same number of cents of increase in tax rate in all districts applied to the taxable value of property of each district, as determined under Subchapter M, Chapter 403, Government Code,] results in an amount [a total levy] equal to the total adjustment necessary. A school district is not entitled to reimbursement in a subsequent fiscal year of the amount resulting from the adjustment authorized by this subsection [reduction. The following fiscal year, a district's entitlement under this section is increased by an amount equal to the reduction made under this subsection].

(i) Not later than March 1 each year, the commissioner shall determine the actual amount of state funds to which each school district is entitled under the allocation formulas in this chapter for the current school year, as adjusted in accordance with Subsection (h), if applicable, and shall compare that amount with the amount of the warrants issued to each district for that year. If the amount of the warrants differs from

the amount to which a district is entitled because of variations in the district's tax rate, student enrollment, or taxable value of property, the commissioner shall adjust the district's entitlement for the next fiscal year accordingly.

SECTION 75.17. Effective September 1, 2017, Subsection (h), Section 42.253, Education Code, is amended to read as follows:

(h) If the amount appropriated for the Foundation School Program for the second year of a state fiscal biennium is less than the amount to which school districts are entitled for that year, the commissioner shall certify the amount of the difference to the Legislative Budget Board not later than January 1 of the second year of the state fiscal biennium. The Legislative Budget Board shall propose to the legislature that the certified amount be transferred to the foundation school fund from the economic stabilization fund and appropriated for the purpose of increases in allocations under this subsection. If the legislature fails during the regular session to enact the proposed transfer and appropriation and there are not funds available under Subsection (j), the commissioner shall adjust ~~reduce~~ the total amounts due to each school district under this chapter and the total amounts necessary for each school district to comply with the requirements of Chapter 41 ~~[amount of state funds allocated to each district]~~ by an amount determined by applying to each district the same percentage adjustment so that the total amount of the adjustment to all districts ~~[a method under which the application of the same number of cents of increase in tax rate in all districts applied to the taxable value of property of each district, as determined under Subchapter M, Chapter 403, Government Code,]~~ results in an amount ~~[a total levy]~~ equal to the total adjustment necessary. A school district is not entitled to reimbursement in a subsequent fiscal year of the amount resulting from the adjustment authorized by this subsection ~~[reduction. The following fiscal year, a district's entitlement under this section is increased by an amount equal to the reduction made under this subsection].~~

SECTION 75.18. Section 42.258, Education Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) If a school district has received an overallocation of state funds, the agency shall, by withholding from subsequent allocations of state funds for the current or subsequent school year or by requesting and obtaining a refund, recover from the district an amount equal to the overallocation.

(a-1) Notwithstanding Subsection (a), the agency may recover an overallocation of state funds over a period not to exceed the subsequent five school years if the commissioner determines that the overallocation was the result of exceptional circumstances reasonably caused by statutory changes to Chapter 41 or 46 or this chapter and related reporting requirements.

SECTION 75.19. Subsection (b), Section 42.260, Education Code, is amended to read as follows:

(b) For each year, the commissioner shall certify to each school district or participating charter school the amount of[-

~~(+)] additional funds to which the district or school is entitled due to the increase made by H.B. No. 3343, Acts of the 77th Legislature, Regular Session, 2001, to:~~

(1) [(A)] the equalized wealth level under Section 41.002; or

(2) ~~[(B)]~~ the guaranteed level of state and local funds per weighted student per cent of tax effort under Section 42.302~~[-or~~

~~[(2) additional state aid to which the district or school is entitled under Section 42.2513].~~

SECTION 75.20. Section 44.004, Education Code, is amended by adding Subsection (g-1) to read as follows:

(g-1) If the rate calculated under Subsection (c)(5)(A)(ii)(b) decreases after the publication of the notice required by this section, the president is not required to publish another notice or call another meeting to discuss and adopt the budget and the proposed lower tax rate.

SECTION 75.21. Subsection (a), Section 26.05, Tax Code, is amended to read as follows:

(a) The governing body of each taxing unit, before the later of September 30 or the 60th day after the date the certified appraisal roll is received by the taxing unit, shall adopt a tax rate for the current tax year and shall notify the assessor for the unit of the rate adopted. The tax rate consists of two components, each of which must be approved separately. The components are:

(1) for a taxing unit other than a school district, the rate that, if applied to the total taxable value, will impose the total amount published under Section 26.04(e)(3)(C), less any amount of additional sales and use tax revenue that will be used to pay debt service, or, for a school district, the rate calculated ~~[published]~~ under Section 44.004(c)(5)(A)(ii)(b), Education Code; and

(2) the rate that, if applied to the total taxable value, will impose the amount of taxes needed to fund maintenance and operation expenditures of the unit for the next year.

SECTION 75.22. Effective September 1, 2017, Subsection (i), Section 26.08, Tax Code, is amended to read as follows:

(i) For purposes of this section, the effective maintenance and operations tax rate of a school district is the tax rate that, applied to the current total value for the district, would impose taxes in an amount that, when added to state funds that would be distributed to the district under Chapter 42, Education Code, for the school year beginning in the current tax year using that tax rate, ~~[including state funds that will be distributed to the district in that school year under Section 42.2516, Education Code,]~~ would provide the same amount of state funds distributed under Chapter 42, Education Code, ~~[including state funds distributed under Section 42.2516, Education Code,]~~ and maintenance and operations taxes of the district per student in weighted average daily attendance for that school year that would have been available to the district in the preceding year if the funding elements for Chapters 41 and 42, Education Code, for the current year had been in effect for the preceding year.

SECTION 75.23. Subsection (n), Section 311.013, Tax Code, is amended to read as follows:

(n) This subsection applies only to a school district whose taxable value computed under Section 403.302(d), Government Code, is reduced in accordance with Subdivision (4) of that subsection. In addition to the amount otherwise required to be paid into the tax increment fund, the district shall pay into the fund an amount equal to the amount by which the amount of taxes the district would have been

required to pay into the fund in the current year if the district levied taxes at the rate the district levied in 2005 exceeds the amount the district is otherwise required to pay into the fund in the year of the reduction. This additional amount may not exceed the amount the school district receives in state aid for the current tax year under Section 42.2514, Education Code. The school district shall pay the additional amount after the district receives the state aid to which the district is entitled for the current tax year under Section 42.2514, Education Code.

SECTION 75.24. Effective September 1, 2011, the following provisions of the Education Code are repealed:

- (1) Subsections (c-2), (c-3), and (e), Section 21.402;
- (2) Section 42.008; and
- (3) Subsections (a-1) and (a-2), Section 42.101.

SECTION 75.25. (a) Effective September 1, 2017, the following provisions of the Education Code are repealed:

- (1) Section 41.0041;
- (2) Subsections (b), (b-1), (b-2), (c), (d), (e), (f), (f-1), (f-2), (f-3), and (i), Section 42.2516;
- (3) Section 42.25161;
- (4) Subsection (c), Section 42.2523;
- (5) Subsection (g), Section 42.2524;
- (6) Subsection (c-1), Section 42.253; and
- (7) Section 42.261.

(b) Effective September 1, 2017, Subsections (i-1) and (j), Section 26.08, Tax Code, are repealed.

SECTION 75.26. (a) The speaker of the house of representatives and the lieutenant governor shall establish a joint legislative interim committee to conduct a comprehensive study of the public school finance system in this state.

(b) Not later than January 15, 2013, the committee shall make recommendations to the 83rd Legislature regarding changes to the public school finance system.

(c) The committee is dissolved September 1, 2013.

SECTION 75.27. It is the intent of the legislature, between fiscal year 2014 and fiscal year 2018, to continue to reduce the amount of Additional State Aid For Tax Reduction (ASATR) to which a school district is entitled under Section 42.2516, Education Code, and to increase the basic allotment to which a school district is entitled under Section 42.101, Education Code.

SECTION 75.28. Except as otherwise provided by this Act, the changes in law made by this Act to Chapter 42, Education Code, apply beginning with the 2011-2012 school year.

SECTION 75.29. The change in law made by Subsection (g-1), Section 44.004, Education Code, as added by this Act, applies beginning with adoption of a tax rate for the 2011 tax year.

Explanation: This change is necessary to adjust state aid payments to school districts and open-enrollment charter schools to the level of Foundation School Program appropriations made in H.B. No. 1, Acts of the 82nd Legislature, Regular Session, 2011.

SR 1260 was read and was adopted by the following vote: Yeas 19, Nays 11.

Yeas: Birdwell, Deuell, Duncan, Eltife, Estes, Fraser, Harris, Hegar, Huffman, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Van de Putte, Wentworth, West, Williams.

Nays: Davis, Ellis, Gallegos, Hinojosa, Jackson, Lucio, Rodriguez, Uresti, Watson, Whitmire, Zaffirini.

Absent: Carona.

REASON FOR VOTE

Senator Van de Putte submitted the following reason for vote on **SR 1260**:

I voted for SR 1260, the resolution to go outside the bounds on SB 1811, because the resolution was necessary to ensure inclusion of a provision I feel strongly should be included in any school finance plan that passes this current Legislature—the provision that caps losses to military school districts should their federal funding be cut drastically (S.B. 1811, CCR, Sec. 42.2525, page 198). Although I still remain opposed to the deep budget cuts in H.B. 1 and the enabling school funding system in S.B. 1811, without the additional provision included in S.B. 1811, the Department of Defense (DoD) school districts would be cut twice—once by federal budget cuts and again by state budget cuts. I therefore supported the resolution that allowed us to protect our DoD schools from even worse devastating cuts.

VAN DE PUTTE

MOTION TO ADOPT CONFERENCE COMMITTEE REPORT ON SENATE BILL 1811

Senator Duncan called from the President's table the Conference Committee Report on **SB 1811**. The Conference Committee Report was filed with the Senate on Saturday, May 28, 2011.

Senator Duncan moved to adopt the Conference Committee Report on **SB 1811**.

Senator Davis was recognized and spoke at length against the Conference Committee Report on **SB 1811**.

Question — Shall the Conference Committee Report on **SB 1811** be adopted?

POINT OF ORDER

Senator Whitmire raised a point of order that legislation cannot be considered in the last 24 hours of a legislative session.

POINT OF ORDER RULING

The President ruled that the point of order was well-taken and sustained.

BILLS AND RESOLUTIONS SIGNED

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

HB 3, HB 308, HB 326, HB 351, HB 422, HB 550, HB 590, HB 630, HB 680, HB 811, HB 968, HB 1040, HB 1090, HB 1111, HB 1199, HB 1224, HB 1234, HB 1334, HB 1371, HB 1495, HB 1504, HB 1638, HB 1658, HB 1759, HB 1760,

HB 1768, HB 1821, HB 1904, HB 1907, HB 1960, HB 2004, HB 2015, HB 2017, HB 2102, HB 2169, HB 2172, HB 2203, HB 2207, HB 2265, HB 2277, HB 2284, HB 2313, HB 2408, HB 2449, HB 2592, HB 2594, HB 2596, HB 2655, HB 2662, HB 2663, HB 2717, HB 2903, HB 2909, HB 2947, HB 2999, HB 3002, HB 3111, HB 3133, HB 3278, HB 3333, HB 3771, HB 3819, HB 3827, HB 3828, HB 3845, HCR 1, HCR 84, HCR 167.

RESOLUTIONS OF RECOGNITION

The following resolutions were adopted by the Senate:

Memorial Resolutions

HCR 126 (Wentworth), In memory of the Honorable Edmund Kuempel of Seguin.

HCR 160 (Eltife), In memory of former state representative Dr. Bob Glaze.

ADJOURNMENT

On motion of Senator Whitmire, the Senate at 12:07 a.m. Monday, May 30, 2011, adjourned until 10:30 a.m. today.

APPENDIX

BILLS AND RESOLUTIONS ENROLLED

May 28, 2011

SB 81, SB 144, SB 156, SB 223, SB 249, SB 263, SB 313, SB 316, SB 377, SB 563, SB 602, SB 647, SB 773, SB 875, SB 1000, SB 1087, SB 1338, SB 1489, SR 1206, SR 1212, SR 1213, SR 1218, SR 1219, SR 1227, SR 1231, SR 1240, SR 1241, SR 1242, SR 1243, SR 1244, SR 1245, SR 1246

