

HOUSE JOURNAL

EIGHTIETH LEGISLATURE, REGULAR SESSION

PROCEEDINGS

EIGHTY-SEVENTH DAY — MONDAY, MAY 28, 2007

The house met at 2 p.m. and was called to order by the speaker.

The roll of the house was called and a quorum was announced present (Record 1997).

Present — Mr. Speaker; Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chisum; Christian; Cohen; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Delisi; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno; Morrison; Mowery; Murphy; O'Day; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Taylor; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Absent — Chavez; Coleman; Davis, Y.; Deshotel; Haggerty; Lucio; Miles; Naishtat; Noriega; Oliveira; Olivo; Talton; Thompson.

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 1).

The invocation was offered by Representative Goolsby, as follows:

Lord, thank you for this day as each day is truly precious in the eyes of those who serve you. We stand here today, asking for your guidance and wisdom to help us make the decisions and take the actions that help to improve the lives of those who sent us here to represent them in our system of government. Following your example, we seek to assist those in need who may not feel that they have a voice or the resources to help themselves. This is our duty, by the strength you have granted us.

Lord, we ask that you watch over your flock and ask that you deliver them safely from the clutches of conflict around the world. Ours is a life blessed by the protections afforded by those men and women who wear the military uniform, who give selflessly, that we may live a better life in peace at home. Please care for the families of those serving in our military forces who play an important role in sustaining the blessed life we enjoy. We keep them in our prayers and thoughts each and every day.

The speaker recognized Representative Goolsby who led the house in the pledges of allegiance to the United States and Texas flags.

(Chavez, Olivo, and Talton now present)

BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER

Notice was given at this time that the speaker had signed bills and resolutions in the presence of the house (see the addendum to the daily journal, Signed by the Speaker, House List Nos. 49 and 50 and Senate List No. 53).

(Haggerty now present)

HCR 282 - ADOPTED (by Solomons)

The following privileged resolution was laid before the house:

HCR 282

WHEREAS, **HB 472** has been adopted by the house of representatives and the senate and is being prepared for enrollment; and

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

RESOLVED by the 80th Legislature of the State of Texas, That the enrolling clerk of the house of representatives be instructed to make the following correction:

In SECTION 1.20 of ARTICLE 1 of the bill, as amended by Senate Floor Amendment No. 1, in added Section 4151.254(b)(1)(B), Insurance Code, strike "under Section 4151.252" and substitute "under Section 4151.253".

HCR 282 was adopted.

HCR 284 - ADOPTED (by Hancock)

The following privileged resolution was laid before the house:

HCR 284

WHEREAS, **HB 2563** 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 80th Legislature of the State of Texas, That the enrolling clerk of the house of representatives be instructed to make the following correction:

(1) In SECTION 4 of the senate committee printing, in redesignated and amended Section 11.1513, Education Code, strike added Subsection (i).

(2) In SECTION 4 of the senate committee printing, in redesignated and amended Section 11.1513(j), Education Code, strike "(j)" and substitute "(i)".

HCR 284 was adopted.

HCR 283 - ADOPTED
(by Hochberg)

The following privileged resolution was laid before the house:

HCR 283

WHEREAS, **HB 2605** 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 80th 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 added Section 81.003, Alcoholic Beverage Code, as amended by Senate Floor Amendment No. 1, strike "representing the district".

HCR 283 was adopted.

HCR 285 - ADOPTED
(by Eissler)

The following privileged resolution was laid before the house:

HCR 285

WHEREAS, **SB 1031** 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 80th Legislature of the State of Texas, That the enrolling clerk of the senate be instructed to make the following corrections:

(1) In SECTION 11 of the conference committee report, in added Section 39.0261, Education Code, immediately following added Subsection (e), insert the following:

(f) The provisions of this section apply only if the legislature appropriates funds for purposes of this section.

(2) In SECTION 11 of the conference committee report, in the heading to added Section 39.0262, Education Code, strike "LOCAL" and substitute "DISTRICT-REQUIRED".

(3) In SECTION 11 of the conference committee report, in added Section 39.0262(a), Education Code, strike "local" and substitute "district-required".

HCR 285 was adopted.

HCR 274 - ADOPTED
(by Coleman)

The following privileged resolution was laid before the house:

HCR 274

WHEREAS, **HB 4091** has been adopted by the house of representatives and the senate and is being prepared for enrollment; and

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

RESOLVED by the 80th Legislature of the State of Texas, That the enrolling clerk of the house of representatives be instructed to make the following correction:

(1) In Section 2 of the bill, in amended Section 3843.053(a), Special District Local Laws Code (senate committee printing page 1, line 27), strike "Brad Negar" and substitute "Brad Nagar".

HCR 274 was adopted.

HCR 288 - ADOPTED
(by Taylor)

The following privileged resolution was laid before the house:

HCR 288

WHEREAS, **HB 1977** has been adopted by the house of representatives and the senate and has been enrolled; and

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

RESOLVED, That the action of the speaker of the house of representatives and the president of the senate in signing **HB 1977** be declared null and void and the signatures of the presiding officers be removed from the bill; and, be it further

RESOLVED by the 80th Legislature of the State of Texas, That the enrolling clerk of the house of representatives be instructed to re-enroll the bill after making the following correction:

In the SECTION of the bill adding Section 1506.2523, Insurance Code, in Subsection (b)(3) of that section, strike "Section 1506.002(b)" and substitute "Sections 1506.002(b), (c), and (d)".

HCR 288 was adopted.

HCR 286 - ADOPTED
(by Hilderbran)

The following privileged resolution was laid before the house:

HCR 286

WHEREAS, **HB 12** has been adopted by the house of representatives and the senate and is being prepared for enrollment; and

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

RESOLVED, by the 80th Legislature of the State of Texas, That the enrolling clerk of the house of representatives be instructed to make the following correction:

Strike SECTION 45 and 46 of the bill and renumber subsequent SECTIONS of the bill accordingly.

HCR 286 was adopted.

(Lucio now present)

HR 2912 - ADOPTED
(by Hilderbran)

Representative Hilderbran moved to suspend Rule 8, Section 13 to take up and consider at this time **HR 2912**.

The motion prevailed.

The following privileged resolution was laid before the house:

HR 2912

BE IT RESOLVED by the House of Representatives of the State of Texas, 80th Legislature, Regular Session, 2007, That House Rule 13, Section 9(a), be suspended in part as provided by House Rule 13, Section 9(f), to enable the conference committee appointed to resolve the differences on **HB 12**, relating to parks, wildlife, hunting, and historic sites, the funding, powers, and duties of the Parks and Wildlife Department, the Parks and Wildlife Commission, and the Texas Historical Commission, and standards for certain state law enforcement officers, and providing a criminal penalty, to consider and take action on the following matters:

(1) House Rule 13, Section 9, is suspended to permit the committee to add Section 614.152(a), Government Code, to read as follows:

(a) Out of appropriated funds, each law enforcement agency shall adopt physical fitness standards that a law enforcement officer must meet to continue employment with the agency as a law enforcement officer. The standards as applied to an officer must directly relate to the officer's job duties. A law enforcement agency shall use the services of a consultant to aid the agency in developing the standards.

Explanation: The change is necessary to require a law enforcement agency to use the services of a consultant to aid the agency in developing the standards.

(2) House Rule 13, Section 9, is suspended to permit the committee to amend Section 12.013, Parks and Wildlife Code, to read as follows:

Sec. 12.013. POWER TO TAKE WILDLIFE; FISH. (a) An employee of the department acting within the scope of the employee's authority may possess, take, transport, release, and manage any of the wildlife and fish in this state for investigation, propagation, distribution, education, disease diagnosis or prevention, or scientific purposes.

(b) A person who is not an employee of the department who is participating under the supervision of a department employee in a program or event designated by the director as being conducted for research or species propagation and as

exempt from the normally applicable size or bag limits may possess, take, transport, or release any fish in this state to accomplish the intent of the program or event.

Explanation: The change is necessary to allow certain persons participating in a state program or event related to fish to possess, take, transport, or release any fish to accomplish the intent of the program or event.

(3) House Rule 13, Section 9, is suspended to permit the committee to amend Section 13.015, Parks and Wildlife Code, by amending Subsection (b) and adding Subsections (a-1), (a-2), (b-1), (b-2), and (b-3) to read as follows:

(a-1) The commission may waive the park entrance fee for a person who is at least 70 years of age. The commission may not waive the fee for use of a park facility, including a hook-up fee for electricity or water.

(a-2) The department may promote visits and enhance revenue at parks, including amounts necessary for salaries, advertising, consumable supplies and materials, promotional products, fees, and related expenses.

(b) The department may operate or grant contracts to operate concessions in state parks or on causeways, beach drives, or other improvements in connection with state park sites. The department may make regulations governing the granting or operating of concessions. The department may establish and operate staff concessions, including salaries, consumable supplies and materials, operating expenses, rental and other equipment, and other capital outlays.

(b-1) The department may purchase products, including food items, for resale or rental at a profit.

(b-2) The department shall operate any resale concession program using standard business practice models to generate revenue and provide quality customer service while adhering to conservation principles.

(b-3) The department may recruit and select private service providers to enter into leased concession contracts with the department to provide necessary and appropriate visitor services.

Explanation: The change is necessary to expand and clarify the Parks and Wildlife Department's authority relating to concessions and admissions at state parks and other facilities operated and maintained by the department.

(4) House Rule 13, Section 9, is suspended to permit the committee to add Subchapter G, Chapter 31, Parks and Wildlife Code, to read as follows:

SUBCHAPTER G. PARTY BOATS

Sec. 31.171. DEFINITIONS. In this subchapter:

(1) "Licensed party boat operator" means a person issued a license by the department under this subchapter.

(2) "Party boat" means a vessel:

(A) operated by the owner of the vessel or an employee of the owner; and

(B) rented or leased by the owner for a group recreational event for more than six passengers.

Sec. 31.172. APPLICABILITY; EXCEPTION. (a) This subchapter applies only to a party boat that operates on the inland waters of this state.

(b) This subchapter does not apply to a boat that is less than 30 feet in length or to a sailboat.

Sec. 31.173. PARTY BOAT OPERATOR AND STAFF. (a) Except as provided by Subsection (c), the party boat owner shall provide staff members, including a licensed party boat operator, who:

(1) operate and staff the party boat for the duration of a rental or lease for a group recreational event as follows:

(A) for a boat with not more than 25 passengers, one staff member who is an operator;

(B) for a boat with at least 26 but not more than 50 passengers, two staff members, including one operator; and

(C) for a boat with more than 50 passengers, three staff members, including one operator; and

(2) have each successfully completed a boater safety course approved under this chapter.

(b) At least one staff member on the boat must be certified to conduct cardiopulmonary resuscitation.

(c) This section does not apply to a party boat rented or leased for an overnight or longer period for which the owner, or the owner's staff, does not intend to remain in constant possession, command, and control of the party boat.

Sec. 31.174. BOAT REQUIREMENTS. A party boat:

(1) may not carry more than the maximum number of passengers the boat may safely accommodate as determined by the department on inspection;

(2) must have a direct and reliable communication connection to the land-based office of the owner and law enforcement and emergency services by cellular telephone or very high frequency radio; and

(3) must pass an annual water safety inspection conducted by the department or a person under contract with the department.

Sec. 31.175. PASSENGER SAFETY INFORMATION; INSURANCE. (a) The owner of a party boat shall provide each passenger with written and verbal safety information and require each passenger to sign a form acknowledging that the passenger reviewed and understands the information.

(b) The verbal and written safety information must disclose that no lifeguard is present on the party boat if there is not at least one staff member on the boat who is certified as a lifeguard by the American Red Cross, the American Lifeguard Association, or another comparable nationally recognized organization.

(c) The owner of a party boat must obtain at least a minimum amount of liability insurance from an insurer licensed to do business in this state. The commission shall set the amount.

Sec. 31.176. PARTY BOAT OPERATOR LICENSE. (a) The commission by rule shall establish, as necessary to protect the public health and safety, the requirements and procedures for the issuance and renewal of a party boat operator license under this subchapter.

(b) Except as provided by Subsection (c), the rules for obtaining a license as a party boat operator must require at a minimum that the applicant:

(1) be at least 21 years of age;

(2) observe for at least four hours a licensed party boat operator operating a party boat on open water;

(3) operate for at least four hours a party boat on open water while being supervised and observed by a licensed party boat operator; and

(4) pass a written examination covering onboard safety procedures and the applicable provisions of this chapter.

(c) An applicant is not required to comply with Subsections (b)(2) and (3) if the applicant has:

(1) at least 25 hours of experience operating a party boat as shown by appropriate documentation; and

(2) no record of boating violations.

Sec. 31.177. FEES. (a) The commission by rule shall establish and collect a reasonable fee for:

(1) the issuance of a party boat operator license under this subchapter; and

(2) the annual water safety inspection of a party boat required by this subchapter.

(b) A fee collected by the department under this subchapter and any interest that accrues on the fee shall be deposited to the credit of the game, fish, and water safety account established under Section 11.032..

Sec. 31.178. DRUG AND ALCOHOL TESTING. If a party boat is involved in an accident causing serious personal injury or death, each staff member on board is subject to mandatory drug and alcohol testing

Sec. 31.179. ENFORCEMENT. (a) In addition to a game warden, any peace officer of a municipality or other political subdivision of this state who is certified as a marine safety enforcement officer under Section 31.121 may enforce this subchapter:

(1) in the area of a navigable body of water that is in the jurisdiction of the municipality or other political subdivision; or

(2) in any part of a lake that is partly or wholly inside the boundaries of:

(A) the municipality or its extraterritorial jurisdiction; or

(B) the political subdivision.

(b) A party boat is subject to enforcement inspections conducted under Section 31.124.

Sec. 31.180. RULES. The commission shall adopt and enforce rules necessary to implement this subchapter.

(b) Not later than January 1, 2008, the Parks and Wildlife Commission shall adopt rules to implement Subchapter G, Chapter 31, Parks and Wildlife Code, as added by this Act.

(c) Subchapter G, Chapter 31, Parks and Wildlife Code, as added by this Act, applies only to the rental or lease of a party boat on the public water of this state for a group recreational event held on or after June 1, 2008.

Explanation: This change is necessary to regulate the operation and safety of certain party boats through a fee, license, and other requirements administered by the Parks and Wildlife Department.

(5) House Rule 13, Section 9, is suspended to permit the committee to amend Sections 43.402(a) and (b), Parks and Wildlife Code, to read as follows:

(a) Except as provided by Subsection (b) or (c) of this section, no person may engage in fishing in saltwater for sporting purposes in this state, or unload in this state fish or other aquatic life taken for sporting purposes from waters managed by the Gulf of Mexico Fishery Management Council established under the Fishery Conservation and Management Act of 1976 (16 U.S.C. Section 1801 et seq.), unless the person has acquired a saltwater sportfishing stamp endorsement issued to the person by the department. The commission by rule may prescribe requirements relating to possessing a stamp endorsement required by this subchapter.

(b) A person who is exempted from obtaining a fishing license under Chapter 46 ~~[of this code]~~ is not required to obtain a saltwater sportfishing stamp endorsement.

Explanation: The change is necessary to prohibit certain persons from unloading fish or other aquatic life taken for sporting purposes from waters managed by the Gulf of Mexico Fishery Management Council.

(6) House Rule 13, Section 9, is suspended to permit the committee to amend Chapter 43, Parks and Wildlife Code, by adding Subchapter V, and to add SECTION 57 to the bill, to read as follows:

SUBCHAPTER V. NONINDIGENOUS SNAKE PERMIT

Sec. 43.851. PERMIT. (a) The commission by rule shall establish permits that allow permit holders to possess or transport in this state a live nonindigenous:

(1) venomous snake; or

(2) constrictor that is one of the following:

(A) African rock python, *Python sebae*;

(B) Asiatic rock python, *Python molurus*;

(C) green anaconda, *Eunectes murinus*;

(D) reticulated python, *Python reticulatus*; or

(E) southern African python, *Python natalensis*.

(b) The commission shall establish separate permits for recreational and commercial purposes.

(c) A permit under this subchapter is not required for:

(1) a state or county official performing an official duty;

(2) a licensed zoo that possesses or transports a snake for exhibition or scientific purposes;

(3) a research facility, including a university, licensed under the Animal Welfare Act (7 U.S.C. Section 2131 et seq.) that possesses or transports a snake for scientific purposes; or

(4) a person who assists a department employee in the handling or transport of a snake under this subchapter.

(d) Except as provided by Subsection (c), a person may not possess or transport in this state a snake described by Subsection (a) without a permit issued by the department under this subchapter.

(e) A person convicted of a violation of this subchapter or a rule adopted under this subchapter may not obtain a permit before the fifth anniversary of the date of the conviction.

Sec. 43.852. INSPECTION OF PERMIT AND RECORDS. An authorized department employee may inspect at any time and without a warrant a permit or any records required by this subchapter.

Sec. 43.853. RELEASE FROM CAPTIVITY. A person may not intentionally, knowingly, recklessly, or with criminal negligence release or allow the release from captivity of a snake covered by this subchapter.

Sec. 43.854. SEIZURE OF CONTRABAND; FINANCIAL RESPONSIBILITY. (a) The department may arrange for the seizure and removal of a snake covered by this subchapter from a person who possesses the snake without the required permit. The person is responsible for any costs incurred by the department in the seizure, removal, and disposition of the snake.

(b) A department employee is not required to handle, remove, or dispose of the snake.

(c) The department may contract with a person who has knowledge of or expertise in the handling of a snake covered by this subchapter to assist the department in the handling, removal, and disposition of the snake.

(d) The department, including an enforcement officer of the department, who acts under this section is not liable in a civil action for the seizure, sale, donation, or other disposition of the snake.

Sec. 43.855. RULES. The commission may adopt rules to implement this subchapter, including rules to govern:

(1) the possession or transport of a snake covered by this subchapter;

(2) permit application forms, fees, and procedures;

(3) the release of the snake;

(4) reports that the department may require a permit holder to submit to the department; and

(5) other matters the commission considers necessary.

Sec. 43.856. OFFENSE. (a) Except as provided by Subsection (c), a person who violates this subchapter or a rule adopted under this subchapter commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

(b) A person who violates Section 43.853 or a rule adopted to implement Section 43.853 commits an offense that is a Class A Parks and Wildlife Code misdemeanor.

SECTION 57. (a) The Parks and Wildlife Commission shall adopt the rules necessary under Subchapter V, Chapter 43, Parks and Wildlife Code, as added by this Act, not later than April 1, 2008.

(b) The Parks and Wildlife Department shall begin issuing permits under Subchapter V, Chapter 43, Parks and Wildlife Code, as added by this Act, not later than April 1, 2008.

Explanation: The change is necessary to regulate the possession of certain nonindigenous snakes and constrictors in this state, through the issuance of permits, the adoption of rules, the imposition of criminal offenses, and certain other measures.

(7) House Rule 13, Section 9, is suspended to permit the committee to amend Section 46.001, Parks and Wildlife Code, to read as follows:

Sec. 46.001. PROHIBITED ACTS. No person may fish in the public water of this state, or unload in this state fish or other aquatic life taken for sporting purposes from waters managed by the Gulf of Mexico Fishery Management Council established under the Fishery Conservation and Management Act of 1976 (16 U.S.C. Section 1801 et seq.), unless he has acquired a fishing license issued under this subchapter, except as provided by Sections 46.0012 and 46.002 [of this code]. The commission by rule may prescribe requirements relating to possessing a license required by this subchapter.

Explanation: The change is necessary to prohibit certain persons from unloading fish or other aquatic life taken for sporting purposes from waters managed by the Gulf of Mexico Fishery Management Council.

(8) House Rule 13, Section 9, is suspended to permit the committee to amend Section 62.001, Parks and Wildlife Code, by adding Subdivision (3) to read as follows:

(3) "Public road or right-of-way" means a public street, alley, road, right-of-way, or other public way, including a berm, ditch, or shoulder.

Explanation: The change is necessary to define "public road or right-of-way."

(9) House Rule 13, Section 9, is suspended to permit the committee to amend Subchapter A, Chapter 62, Parks and Wildlife Code, by adding Section 62.0031 to read as follows:

Sec. 62.0031. HUNTING FROM PUBLIC ROAD OR RIGHT-OF-WAY PROHIBITED. (a) Except as provided by Subsection (b), a person may not hunt a wild animal or bird when the person is on a public road or right-of-way.

(b) This section does not apply to the trapping of a raptor for educational or sporting purposes as provided by Chapter 49.

Explanation: The change is necessary to prohibit certain persons from hunting a wild animal or bird when the person is on a public road or right-of-way.

(10) House Rule 13, Section 9, is suspended to permit the committee to amend the heading to Chapter 284, Parks and Wildlife Code, and amend Section 284.001, Parks and Wildlife Code, by amending Subsections (b) and (d) and adding Subsection (f) to read as follows:

CHAPTER 284. DIMMIT, EDWARDS, FRIO, IRION, KENEDY, KIMBLE,
LLANO, MASON, MAVERICK, REAL, UVALDE, AND ZAVALA
COUNTIES

(b) This section applies only to a navigable river or stream located wholly or partly in Dimmit, Edwards, Frio, Irion, Kenedy, Kimble, Llano, Mason, Maverick, Real, Uvalde, or Zavala County.

(d) This section does not apply to:

(1) an individual acting in the scope of the individual's duties as a peace officer or department employee; [or]

(2) the discharge of a shotgun loaded with ammunition that releases only shot when discharged, except as provided by Subsection (f); or

(3) bow fishing.

(f) In Dimmit, Uvalde, or Zavala County, a person may discharge a shotgun loaded with ammunition that releases only shot when discharged only if the person is hunting:

(1) migratory birds, as defined by Section 34.021; or

(2) game animals, as defined by Section 63.001, except mule deer, white-tailed deer, or antelope.

Explanation: This change is necessary to regulate certain types of hunting in the counties of Irion, Kimble, Mason, Dimmit, Uvalde, and Zavala.

(11) Senate Rules 12.03(1) and (3) are suspended to permit the committee to amend Section 151.801, Tax Code, by amending Subsection (c) and adding Subsection (c-1) to read as follows:

(c) Subject to Subsection (c-1), the ~~The~~ proceeds from the collection of the taxes imposed by this chapter on the sale, storage, or use of sporting goods shall be deposited as follows:

(1) an amount equal to 94 percent of the proceeds ~~[For the period beginning September 1, 1993, and ending August 31, 1995, an amount equal to 50 cents per 1,000 cigarettes shall be deposited to the credit of the general revenue fund, state parks account, and an amount equal to 50 cents per 1,000 cigarettes shall be deposited to the credit of the general revenue fund, Texas recreation and parks account, and the balance shall be retained in the general revenue fund.~~

[(2) Beginning September 1, 1995, the taxes collected] shall be credited to the Parks and Wildlife Department and deposited as specified in the Parks and Wildlife Code; and

(2) an amount equal to six percent of the proceeds shall be credited to the Texas Historical Commission and deposited as specified in Section 442.073, Government Code. ~~[The comptroller shall not credit in excess of \$32 million in sporting goods tax revenue annually to the Parks and Wildlife Department.]~~

(c-1) The comptroller may not credit to the Parks and Wildlife Department or the Texas Historical Commission any amounts under this section that are in excess of the amounts appropriated to the department or commission for that biennium, less any other amounts to which the department or commission is entitled.

Explanation: This change is necessary to clarify that the comptroller may not credit to the Parks and Wildlife Department or the Texas Historical Commission more than the amount appropriated to the department or commission, less certain other amounts.

(12) House Rule 13, Section 9, is suspended to permit the committee to add SECTION 53 to read as follows:

SECTION 53. (a) In this section, "historic site" means a historic site or park listed under Section 442.072, Government Code, as added by this Act.

(b) On or after January 1, 2008, as provided by this section, the following are transferred to the Texas Historical Commission:

(1) each historic site and all obligations and liabilities of the Parks and Wildlife Department relating to the site;

(2) all unobligated and unexpended funds appropriated to the Parks and Wildlife Department designated for the administration of each site;

(3) all equipment and property of the Parks and Wildlife Department used for the administration of or related to each site; and

(4) all files and other records of the Parks and Wildlife Department kept by the department regarding each site.

(c) A rule adopted by the Parks and Wildlife Commission that is in effect immediately before January 1, 2008, and that relates to a historic site is, on January 1, 2008, a rule of the Texas Historical Commission and remains in effect until amended or repealed by the Texas Historical Commission. A rule that applies to both a transferred site and park that is not transferred is a rule of both commissions and applies to the transferred site until amended or repealed by the Texas Historical Commission.

(d) A transfer under this Act does not diminish or impair the rights of a holder of an outstanding bond or other obligation issued by the Parks and Wildlife Department in relation to the support of a historic site.

(e) On January 1, 2008, a reference in the Parks and Wildlife Code or other law to a power, duty, obligation, or liability of the Parks and Wildlife Department or the Parks and Wildlife Commission that relates to a historic site is a reference to the Texas Historical Commission. The Texas Historical Commission is the successor agency to the Parks and Wildlife Department and the Parks and Wildlife Commission for the site.

(f) The Texas Historical Commission shall prepare a base operating plan for each historic site before the transfer of any site or associated artifact or archival materials from the Parks and Wildlife Department to the commission. The base operating plan for each site must be completed on or before January 1, 2008. The base operating plan for each site must include:

(1) a mission statement outlining the goals for the site;

(2) an interpretive plan showing how the mission is to be accomplished;

(3) an operational plan, including:

(A) facilities, documents, records, and other assets to be transferred;

(B) parties responsible for daily site management, including staff that will be transferred;

(C) off-site support structure;

(D) plans for artifact and archival curation;

(E) signed memoranda of understanding or memoranda of agreement with appropriate friends groups and volunteer organizations; and

(F) emergency plans;

(4) a maintenance plan, including maintenance and repair needs;

(5) a marketing plan;

(6) a business plan, including revenue and visitation goals;

(7) a plan for compliance with:

(A) Chapter 191, Natural Resources Code (the Antiquities Code of Texas); and

(B) the National Historic Preservation Act (16 U.S.C. Section 470 et seq.); and

(8) fiscal plans and budgets associated with Subdivisions (1) through (7) of this subsection.

(g) Not later than September 1, 2007, the chair of the House Committee on Culture, Recreation, and Tourism shall appoint from that committee an interim study subcommittee to review the base operating plan described by Subsection (f) of this section. The interim subcommittee shall obtain feedback and information from professionals familiar with the work of the Parks and Wildlife Department, the Texas Historical Commission, the National Park Service, the Council of Texas Archeologists, professional archivists, park managers, and the tourism industry. Not later than September 1, 2008, the interim study subcommittee shall report to the House Committee on Culture, Recreation, and Tourism on the results of the study conducted under this subsection.

(h) Until a historic site is transferred to the Texas Historical Commission in accordance with this Act, the Parks and Wildlife Department shall continue to operate and maintain the site under applicable law as it existed on January 1, 2007.

(i) The Parks and Wildlife Department and the Texas Historical Commission shall keep the House Committee on Culture, Recreation, and Tourism, the subcommittee on Agriculture, Rural Affairs and Coastal Resources, and the Senate and House members in whose district, a historic site is being transferred, informed of the progress of the transfer of each historic site under this Act.

(j) An employee of the Parks and Wildlife Department whose job responsibilities are more than 50 percent related to a historic site transferred to the Texas Historical Commission under this Act becomes an employee of the Texas Historical Commission on the date of the transfer of that site. An employee whose job is transferred may not be dismissed after the transfer except for cause before the first anniversary of the date of the transfer.

Explanation: This change is necessary to provide for the transfer of certain historic sites to the Texas Historical Commission, require the commission to adopt base operating plans for the sites, and establish an interim study subcommittee to review the base operating plans.

(13) House Rule 13, Section 9, is suspended to permit the committee to add SECTION 56 to read as follows:

SECTION 56. (a) The House Committee on Culture, Recreation, and Tourism shall conduct a study to determine whether this state should permit the possession of nonindigenous venomous snakes and nonindigenous constrictors as provided by Subchapter V, Chapter 43, Parks and Wildlife Code, as added by this Act.

(b) The study must include:

(1) a comparison of laws regulating nonindigenous snakes in other states;

(2) alternative methods of regulating the possession of nonindigenous snakes;

(3) the economic, environmental, and other effects of allowing nonindigenous snakes to be held in the state, including:

(A) the potential to harbor and spread diseases or parasites, or other adverse effects; and

(B) the economic and other benefits to this state that may be obtained by regulating the trade in nonindigenous snakes; and

(4) other related matters the committee finds useful.

(c) Not later than November 1, 2008, the committee shall report its findings to the governor, the executive directors of the Parks and Wildlife Department and the Department of Agriculture, and each member of the committee.

Explanation: This change is necessary to require a study to determine whether this state should permit the possession of nonindigenous venomous snakes and nonindigenous constrictors.

(14) House Rule 13, Section 9, is suspended to permit the committee to add SECTION 58 to read as follows:

SECTION 58. (a) The joint legislative task force on the use of the sales tax on sporting goods is composed of eight members, as follows:

(1) two members of the House Culture, Recreation and Tourism Committee, one being the chair of the committee and one appointed by the speaker of the house of representatives;

(2) two members, each of whom must be a member of the House Appropriations Committee or House Ways and Means Committee, as appointed by the speaker of the house representatives;

(3) two members of the Senate Committee on Natural Resources, one being the chair of the committee and one appointed by the lieutenant governor; and

(4) two members of the Senate Committee on Finance, appointed by the lieutenant governor.

(b) The speaker of the house of representatives shall designate the chair of the House Committee on Culture, Recreation and Tourism to serve as a joint presiding officer of the task force, and the lieutenant governor shall designate another task force member to serve as the other joint presiding officer.

(c) The task force meets at the call of the joint presiding officers.

(d) The task force shall:

(1) review the items that are included in the definition of "sporting goods" under Section 151.801(e), Tax Code;

(2) determine the amount of sales tax revenue that must be generated from the sale of "sporting goods" to fund, at a minimum, the appropriations made by the 80th Legislature regarding state parks, local parks, historic sites, coastal management programs, and water planning;

(3) not later than December 15, 2008, prepare and present to the legislature a report that describes the findings of the task force and includes recommendations regarding the specific items that should be included in the definition of "sporting goods" under Section 151.801(e), Tax Code in order to more evenly match the revenue streams needed to cover ongoing appropriations (estimated to be \$70 million per annum), net of the use of unexpended balances in 2008-2009 biennium, without creating large dedicated fund balances.

(e) It is the intent of the 80th Legislature that Section 151.801(c-1), Tax Code, as added by this Act, be repealed on adoption of a statute implementing the recommendations of the task force.

Explanation: This change is necessary to require a task force to study the appropriate collection and distribution of the sporting goods sales tax.

(15) House Rule 13, Section 9, is suspended to permit the committee to add SECTION 59 to read as follows:

SECTION 59. If the Parks & Wildlife Department does not receive a grant of funds from the Department of Transportation, the Parks and Wildlife Department may spend no more than \$50,000 to maintain a river-access point and picnic area in Zavala County that is adjacent to the Nueces River and United States Highway 83 intersection north of La Pryor, Texas. If the Parks and Wildlife Department receives a grant of funds from the Department of Transportation, the Parks and Wildlife Department may not spend money, other than money received under the grant, on maintenance described by this section.

Explanation: This change is necessary to administer the use of funds expended by the Parks and Wildlife Department for certain projects.

(16) House Rule 13, Section 9, is suspended to permit the committee to add SECTION 60 to read as follows:

SECTION 60. (a) The Parks and Wildlife Department shall conduct a study of ways to improve the efficiency and ease of use of the department's hunting and fishing license systems. The study must:

(1) evaluate the efficiency of the hunting and fishing license systems in effect on September 1, 2007;

(2) identify problems and suggest improvements to those systems; and

(3) identify ways to increase ease of use for individuals applying for a hunting or fishing license in this state.

(b) The Parks and Wildlife Department shall complete the study conducted under Subsection (a) of this section not later than July 1, 2008.

(c) Not later than October 1, 2008, the Parks and Wildlife Department shall submit to the governor, the lieutenant governor, the speaker of the house of representatives, and the chair of each committee of the legislature that has primary oversight jurisdiction over the department a written report that summarizes the findings of the study conducted under Subsection (a) of this section.

Explanation: This change is necessary to require the Parks and Wildlife Department to study the department's fishing and license systems and report its findings to the legislature.

HR 2912 was adopted.

HB 12 - RULES SUSPENDED

Representative Hilderbran moved to suspend all necessary rules to consider the conference committee report on **HB 12**.

The motion prevailed.

HB 12 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Hilderbran submitted the following conference committee report on **HB 12**:

Austin, Texas, May 27, 2007

The Honorable David Dewhurst
President of the Senate

The Honorable Tom Craddick
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 12** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Estes
Jackson
Ogden

Hilderbran
Flores
Gattis
D. Howard
O'Day

On the part of the senate

On the part of the house

HB 12, A bill to be entitled An Act relating to parks, wildlife, hunting, and historic sites; the funding, powers, and duties of the Parks and Wildlife Department, the Parks and Wildlife Commission, and the Texas Historical Commission; and standards for certain state law enforcement officers; providing a criminal penalty.

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

SECTION 1. Sections 442.002(b), (e), and (k), Government Code, are amended to read as follows:

(b) The commission is composed of 17 members appointed by the governor with the advice and consent of the senate. ~~One member must be a professional archeologist, one must be a professional historian, and one must be a licensed architect who has expertise in historic preservation and architectural history. Fourteen members must be representatives of the general public.~~ A person may is not be eligible for appointment as a public member of the commission if the person or the person's spouse:

(1) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by the commission or receiving money ~~[funds]~~ other than grant money ~~[funds]~~ from the commission; ~~[or]~~

(2) uses or receives a substantial amount of tangible goods, services, or money ~~[funds]~~ from the commission, other than compensation or reimbursement authorized by law for commission membership, attendance, or expenses; or

(3) is employed by or participates in the management of a business entity or other organization regulated by or receiving money other than grant money from the commission.

(e) A member of the commission must be a citizen of this state who has demonstrated an interest in the preservation of the state's historical or archeological heritage. In making appointments to the commission, the governor shall[~~;~~

~~[(1)] seek to have each geographical section of the state represented as nearly as possible[; and~~

~~[(2)] appoint at least two members from counties with a population of less than 50,000].~~

(k) The Texas Historical Commission is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission is abolished and this chapter expires September 1, 2019 ~~[2007]~~.

SECTION 2. Section 442.0021, Government Code, is amended to read as follows:

Sec. 442.0021. COMMISSION MEMBERS: TRAINING. (a) A person who is appointed to and qualifies for office as a member of the commission may not vote, deliberate, or be counted as a member in attendance at a meeting of the commission until the person completes a training program that complies with this section ~~[Before a member of the commission may assume the member's duties and before the member may be confirmed by the senate, the member must complete at least one course of the training program established under this section].~~

(b) The [A] training program must ~~[established under this section shall]~~ provide the person with information ~~[to the member]~~ regarding:

(1) the [enabling] legislation that created the commission;

(2) the programs, functions, rules, and budget of the commission;

(3) the results of the most recent formal audit of the commission ~~[(2) the programs operated by the commission];~~

(4) the requirements of laws relating to open meetings, public information, administrative procedure, and conflicts of interest ~~[(3) the role and functions of the commission]; and~~

(5) any applicable ethics policies adopted by the commission or the Texas Ethics Commission ~~[(4) the rules of the commission with an emphasis on the rules that relate to disciplinary and investigatory authority;~~

~~[(5) the current budget for the commission;~~

~~[(6) the results of the most recent formal audit of the commission;~~

~~[(7) the requirements of the:~~

~~[(A) open meetings law, Chapter 551;~~

~~[(B) open records law, Chapter 552; and~~

~~[(C) administrative procedure law, Chapter 2001;~~

~~[(8) the requirements of the conflict of interest laws and other laws relating to public officials; and~~

~~[(9) any applicable ethics policies adopted by the commission or the Texas Ethics Commission].~~

(c) A person appointed to the commission is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

SECTION 3. Sections 442.0022(a) and (b), Government Code, are amended to read as follows:

(a) In this section, "Texas trade association" means a cooperative and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest [An officer, employee, or paid consultant of a Texas trade association in the field of archeology or historic preservation may not be a member of the commission or employee of the commission who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule].

(b) A person may not be a member of the commission and may not be a commission employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.) if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of archeology or historic preservation; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of archeology or historic preservation [A person who is the spouse of an officer, manager, or paid consultant of a Texas trade association in the field of archeology or historic preservation may not be a member of the commission and may not be an employee of the commission who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule].

SECTION 4. Section 442.004, Government Code, is amended by adding Subsection (b-1) to read as follows:

(b-1) The executive director may not serve as a voting director on the board of directors of an affiliated nonprofit organization formed under Section 442.005(p).

SECTION 5. Subchapter A, Chapter 442, Government Code, is amended by adding Sections 442.0051, 442.0052, and 442.0053 to read as follows:

Sec. 442.0051. FEES. The commission by rule may establish reasonable fees for commission purposes under this chapter, including an admission fee appropriate to a historic site under its jurisdiction.

Sec. 442.0052. VOLUNTEER SERVICES. (a) Except as provided by Subsection (b), the commission may use the services of volunteers to help carry out the duties and responsibilities of the commission.

(b) A volunteer may not enforce this code.

Sec. 442.0053. ELIGIBILITY CRITERIA FOR INCLUSION OF REAL PROPERTY IN STATE HISTORIC SITES SYSTEM. (a) The commission by rule shall adopt criteria for determining the eligibility of real property donated to the commission for inclusion in the historic sites system.

(b) The commission may accept a donation of real property that satisfies the criteria adopted under Subsection (a).

(c) The commission may renovate or restore donated real property, including improvements to the property, or construct new improvements on the donated real property as necessary and prudent.

SECTION 6. Subchapter A, Chapter 442, Government Code, is amended by adding Section 442.0055 to read as follows:

Sec. 442.0055. AFFILIATED NONPROFIT ORGANIZATION; RULES; GUIDELINES. (a) The commission shall adopt rules governing the relationship between the commission and an affiliated nonprofit organization formed under Section 442.005(p), including rules that, at a minimum:

(1) define the extent to which commission employees with regulatory responsibilities, including the executive director, may participate in activities that raise funds for an affiliated nonprofit organization, which may not include the direct solicitation of funds; and

(2) define the relationship between commission employees and an affiliated nonprofit organization.

(b) The commission shall establish guidelines for identifying and defining the administrative and financial support the commission may provide for an affiliated nonprofit organization formed under Section 442.005(p).

SECTION 7. Section 442.006, Government Code, is amended by amending Subsection (b) and adding Subsection (h) to read as follows:

(b) The commission shall:

(1) develop statewide themes for the program related to the commission's preservation goals for the state;

(2) install markers recognizing districts, sites, individuals, events, structures, and objects significant in Texas or American history, architecture, archeology, or culture;

(3) ~~and shall~~ keep a register of those markers; and

(4) establish a limit for the number of markers the commission awards annually.

(h) The commission by rule shall establish guidelines for an application for, and the commission's review of the application for, a historical marker, monument, or medallion. The guidelines must include criteria for ranking the applications. The commission shall give priority to the markers, monuments, and medallions that relate to the statewide themes developed by the commission.

SECTION 8. Sections 442.009(a), (b), and (c), Government Code, are amended to read as follows:

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

disposition ~~[prepare information of public interest describing the functions of the commission and the procedures by which complaints are filed with and resolved by the commission. The commission shall make the information available to the public and appropriate state agencies].~~

(b) The commission ~~[by rule]~~ shall make information available describing its procedures for complaint investigation and resolution ~~[establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of the commission for the purpose of directing complaints to the commission].~~

(c) The commission shall periodically notify the complaint parties of the status of the complaint until final disposition ~~[keep information about each complaint filed with the commission. The information shall include:~~

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

~~[(2) the name of the complainant;~~

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

~~[(4) a record of all persons contacted in relation to the complaint;~~

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

~~[(6) for complaints for which the agency took no action, an explanation of the reason the complaint was closed without action].~~

SECTION 9. Section 442.015, Government Code, is amended by amending Subsections (a), (b), and (f) and adding Subsections (h), (i), (j), (k), and (l) to read as follows:

(a) Notwithstanding Sections 403.094 and 403.095, the Texas preservation trust fund account is a separate account in the general revenue fund. The account consists of transfers made to the account, loan repayments, grants and donations made for the purposes of this program, proceeds of sales, earnings ~~[income earned]~~ on ~~[money in]~~ the account, and any other money received under this section. Distributions from ~~[Money in]~~ the account may be used only for the purposes of this section and may not be used to pay operating expenses of the commission. Money allocated to the commission's historic preservation grant program shall be deposited to the credit of the account. Earnings ~~[Income earned]~~ on ~~[money in]~~ the account shall be deposited to the credit of the account.

(b) The commission may use distributions from ~~[money in]~~ the Texas preservation trust fund account to provide financial assistance to public or private entities for the acquisition, survey, restoration, or preservation, or for planning and educational activities leading to the preservation, of historic property in the state that is listed in the National Register of Historic Places or designated as a State Archeological Landmark or Recorded Texas Historic Landmark, or that the commission determines is eligible for such listing or designation. The financial assistance may be in the amount and form and according to the terms that the commission by rule determines. The commission shall give priority to property the commission determines to be endangered by demolition, neglect, underuse, looting, vandalism, or other threat to the property. Gifts and grants ~~[Money]~~ deposited to the credit of the account specifically for any eligible projects may be used only for the type of projects specified. If such a specification is not made,

the gift or grant [money] shall be unencumbered and accrue to the benefit of the Texas preservation trust fund account. If such a specification is made, the entire amount of the gift or grant may be used during any period for the project or type of project specified.

(f) The advisory board shall recommend to the commission rules for administering Subsections (a)-(c) [this section].

(h) The comptroller shall manage the assets of the account. In managing the assets of the account, the comptroller may acquire, exchange, sell, supervise, manage, or retain, through procedures and subject to restrictions the comptroller considers appropriate, any kind of investment that a prudent investor, exercising reasonable care, skill, and caution, would acquire or retain in light of the purposes, terms, distribution requirements, and other circumstances of the account then prevailing, taking into consideration the investment of all the assets of the account rather than a single investment.

(i) The amount of a distribution shall be determined by the comptroller in a manner intended to provide a stable and predictable stream of annual distributions and to maintain over time the purchasing power of account investments and annual distributions from the account. If the purchasing power of account investments for any 10-year period is not preserved, the comptroller may not increase annual distributions from the account until the purchasing power of account investments is restored.

(j) An annual distribution made by the comptroller from the account during a fiscal year may not exceed an amount equal to seven percent of the average net fair market value of the investment assets of the account as determined by the comptroller.

(k) The expenses of managing account investments shall be paid from the account.

(l) On request, the comptroller shall fully disclose all details concerning the investments of the account.

SECTION 10. Subchapter A, Chapter 442, Government Code, is amended by adding Sections 442.022 and 442.023 to read as follows:

Sec. 442.022. USE OF TECHNOLOGY. The commission shall implement a policy requiring the commission to use appropriate technological solutions to improve the commission's ability to perform its functions. The policy must ensure that the public is able to interact with the commission on the Internet.

Sec. 442.023. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE PROCEDURES. (a) The commission shall develop and implement a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008 for the adoption of commission rules; and

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

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

(c) The commission shall designate a trained person to:

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

(2) serve as a resource for any training needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and

(3) collect data concerning the effectiveness of those procedures, as implemented by the commission.

SECTION 11. Chapter 442, Government Code, is amended by adding Subchapter C to read as follows:

SUBCHAPTER C. CERTAIN HISTORIC SITES

Sec. 442.071. DEFINITION. In this subchapter, "historic site" means a site or park listed under Section 442.072.

Sec. 442.072. JURISDICTION. (a) The following historic sites and parks formerly under the jurisdiction of the Parks and Wildlife Department are under the commission's jurisdiction:

- (1) Acton State Historic Site;
- (2) Caddoan Mounds State Historic Site;
- (3) Casa Navarro State Historic Site;
- (4) Confederate Reunion Grounds State Historic Site;
- (5) Eisenhower Birthplace State Historic Site;
- (6) Fannin Battleground State Historic Site;
- (7) Fort Griffin State Historic Site;
- (8) Fort Lancaster State Historic Site;
- (9) Fort McKavett State Historic Site;
- (10) Fulton Mansion State Historic Site;
- (11) Landmark Inn State Historic Site;
- (12) Levi Jordan State Historic Site;
- (13) Magoffin Home State Historic Site;
- (14) Sabine Pass Battleground State Historic Site;
- (15) Sam Bell Maxey House State Historic Site;
- (16) San Felipe State Historic Site;
- (17) Starr Family Home State Historic Site;
- (18) Varner-Hogg Plantation State Historic Site.

(b) This subsection applies to a historic site that the state is required to operate in a particular manner or for a particular purpose, such as a site improved with federal money subject to federal restrictions on the purposes for which the improved site may be used or a site donated to the state subject to a reversion clause providing that the title reverts to the grantor when the site is not used for the purposes for which it was acquired. The commission has all powers necessary to operate the site in the required manner or for the required purpose.

(c) The commission may enter into an agreement with a nonprofit corporation, foundation, association, or other nonprofit entity for the expansion, renovation, management, operation, or financial support of a historic site.

Sec. 442.073. HISTORIC SITE ACCOUNT. (a) The historic site account is a separate account in the general revenue fund.

(b) The account consists of:

- (1) credits made to the commission under Section 151.801, Tax Code;
- (2) transfers to the account;
- (3) interest earned on the account;
- (4) fees and other revenue from operation of a historic site; and
- (5) grants and donations accepted under Section 442.074.

(c) A fee or other revenue generated at a historic site must be credited to the account.

(d) Money in the account may be used only to administer, operate, preserve, repair, expand, or otherwise maintain a historic site or to acquire a historical item appropriate to a historic site.

(e) Any money in the account not used in a fiscal year remains in the account. The account is exempt from the application of Section 403.095.

Sec. 442.074. GRANTS; DONATIONS. (a) The commission may seek and accept grants and donations for a historic site from any appropriate source.

(b) Money accepted under this section shall be deposited to the credit of the historic site account.

SECTION 12. Section 442.019, Government Code, as added by Chapter 1259, Acts of the 79th Legislature, Regular Session, 2005, is transferred to Subchapter C, Chapter 442, Government Code, as added by this Act, renumbered as Section 442.075, Government Code, and amended to read as follows:

Sec. 442.075 [442.019]. TRANSFER OF HISTORIC [HISTORICAL] SITES FROM PARKS AND WILDLIFE. (a) Section 442.071 does not apply to this section.

(b) By interagency agreement, a historic [historical] site under the jurisdiction of the Parks and Wildlife Department may be transferred to the commission.

(c) [(b)] If jurisdiction over a historic [historical] site is transferred under this section, all rights, powers, duties, obligations, functions, activities, property, and programs of the Parks and Wildlife Department relating to the [historical] site are transferred to the commission.

(d) [(e)] On or after the transfer of jurisdiction over a historic [historical] site, the commission may enter into an agreement with a nonprofit corporation, including the Admiral Nimitz Foundation, for the expansion, renovation, management, operation, or financial support of the site.

(e) The legislature may adjust the percentages allocated to the commission and the Parks and Wildlife Department under Section 151.801(c), Tax Code, in future appropriations to reflect the transfer of a site under this section and the associated savings or costs to each agency.

SECTION 13. Chapter 614, Government Code, is amended by adding Subchapter H to read as follows:

SUBCHAPTER H. STANDARDS FOR CERTAIN LAW ENFORCEMENT
OFFICERS

Sec. 614.151. DEFINITIONS. In this subchapter:

(1) "Law enforcement agency" means the Department of Public Safety, Texas Alcoholic Beverage Commission, Texas Department of Criminal Justice, and Parks and Wildlife Department.

(2) "Law enforcement officer" means a person who:

(A) is a commissioned peace officer;

(B) is employed by a law enforcement agency; and

(C) is compensated according to:

(i) Schedule C of the position classification salary schedule prescribed by the General Appropriations Act if the person is employed by a law enforcement agency other than the Parks and Wildlife Department; or

(ii) Schedule B or C of the position classification salary schedule prescribed by the General Appropriations Act if the person is employed by the Parks and Wildlife Department.

Sec. 614.152. PHYSICAL FITNESS STANDARDS. (a) Out of appropriated funds, each law enforcement agency shall adopt physical fitness standards that a law enforcement officer must meet to continue employment with the agency as a law enforcement officer. The standards as applied to an officer must directly relate to the officer's job duties. A law enforcement agency shall use the services of a consultant to aid the agency in developing the standards.

(b) Except as provided by Subsection (c), a violation of a standard adopted under Subsection (a) is just cause to discharge an officer or:

(1) transfer an officer to a position that is not compensated according to Schedule C of the position classification salary schedule prescribed by the General Appropriations Act; or

(2) for a law enforcement officer employed by the Parks and Wildlife Department and compensated according to Schedule B of the position classification salary schedule prescribed by the General Appropriations Act, transfer the officer to a position that does not require the employee to be a commissioned peace officer.

(c) A law enforcement agency may exempt a law enforcement officer from a standard under Subsection (a) based on the facts and circumstances of the individual case, including whether an officer was injured in the line of duty.

SECTION 14. Section 651.004, Government Code, is amended by adding Subsection (f) to read as follows:

(f) The Parks and Wildlife Department is not required to comply with management-to-staff ratio requirements of this section with respect to employees located in field-based operations.

SECTION 15. Section 11.0262(a), Parks and Wildlife Code, is amended to read as follows:

(a) An employee of the state parks division of the department may accept a gratuity if:

(1) the employee, as a primary job duty, serves food or beverages in a restaurant, cafeteria, or other food service establishment located within a state park and owned and operated by the department;

(2) the employee, as an auxiliary duty in performance of a regular duty renders a special customer service to an individual or group;

(3) the gratuity is offered by a customer:

(A) of the restaurant, cafeteria, ~~[or other]~~ food service establishment, or hospitality unit of the state parks division in appreciation of being served food or beverages by the employee; or

(B) of a hospitality unit of the state parks division, in appreciation of receiving some other customer service from the employee;

(4) ~~(3)~~ the department has designated the employee as an employee authorized to accept a gratuity; and

(5) ~~(4)~~ the employee reports the gratuity in accordance with commission rules.

SECTION 16. Section 11.035(b), Parks and Wildlife Code, is amended to read as follows:

(b) The department shall deposit to the credit of the state parks account all revenue, less allowable costs, received from the following sources:

(1) grants or operation of concessions in state parks or fishing piers;

(2) publications on state parks, state historic sites, or state scientific areas;

(3) fines or penalties received from violations of regulations governing parks issued pursuant to Subchapter B, Chapter 13~~[, of this code]~~;

(4) fees and revenue collected under Section 11.027(b) or (c) ~~[of this code]~~ that are associated with state park lands;

(5) an amount of money equal to 74 ~~[\$1,125,000 per month and 40]~~ percent of the ~~[amount above \$27 million per year of]~~ credits made to the department under Section 151.801, Tax Code; and

(6) any other source provided by law.

SECTION 17. Section 11.043(b), Parks and Wildlife Code, is amended to read as follows:

(b) The account consists of:

(1) the amount of credits made to the department under Section 151.801, Tax Code, after allocations to:

(A) the state parks account;

(B) the large county and municipality recreation and parks account;
and

(C) the Texas recreation and parks account;

(2) ~~7~~ proceeds of revenue bonds issued under Section 13.0045; and

(3) money from~~[, or]~~ any other source authorized by law.

SECTION 18. Chapter 11, Parks and Wildlife Code, is amended by adding Subchapter K to read as follows:

SUBCHAPTER K. MANAGEMENT AND EFFICIENCY REVIEWS

Sec. 11.251. MAINTENANCE EQUIPMENT REVIEW SYSTEM. (a) In this section:

(1) "Maintenance equipment" means personal property owned by the department that is used to administer, operate, preserve, repair, expand, or otherwise maintain real property, including improvements and fixtures, owned or operated by the department.

(2) "Outdated equipment" means equipment:

(A) that has a fair market value that is less than the annual cost of maintaining the equipment in working order;

(B) that is not operational and cannot reasonably be made operational; or

(C) that no longer serves a department purpose.

(b) The commission by rule shall establish an equipment review system through which the department annually determines whether any of the department's maintenance equipment has become outdated equipment since the last date the department conducted an equipment review under this section.

(c) The equipment review system established under Subsection (b) must require the department to sell any outdated equipment in the manner and at the time specified by the commission by rule.

(d) The department shall deposit proceeds from the sale of equipment under this section to the credit of the appropriate parks and wildlife account.

Sec. 11.252. MAINTENANCE PROVIDER REVIEW SYSTEM. (a) In this section "maintenance" includes the administration, operation, preservation, repair, and expansion of personal property owned by the department and real property owned or operated by the department.

(b) The commission by rule shall establish a maintenance provider review system through which the department annually determines whether a maintenance task performed by the department could be performed by a third-party contractor in a manner that:

(1) is more cost-effective than the department's manner of performing the maintenance task; and

(2) yields a result that is equal to or greater than the quality of the result produced by the department performing the task.

(c) The maintenance provider review system established under Subsection (b) must require the department to contract with a third party for the performance of any maintenance task performed by the department that could be performed by a third-party contractor in the manner that meets the criteria described by Subsection (b) after the department's cost of administering the contract is added to the cost of performance by the third party.

Sec. 11.253. MANAGEMENT PLAN AND PRIORITIES LIST. Not later than January 15 of each odd-numbered year the department shall submit to the governor, the speaker of the house of representatives, the lieutenant governor, and the chair of each house and senate standing committee having jurisdiction over a matter regulated by the department under this code a management plan to address the department's maintenance responsibilities under this subchapter and a priorities list that includes the following information:

(1) a prioritized list of facilities operated by the department that are most in need of repair, renovation, expansion, or other maintenance;

(2) an itemized list explaining any additional funding requested by the department to accomplish a task described by Subdivision (1); and

(3) the results of the reviews conducted under Sections 11.251, 11.252, and 13.019(b).

SECTION 19. Section 12.010, Parks and Wildlife Code, is amended to read as follows:

Sec. 12.010. NUISANCE OR NOXIOUS AQUATIC VEGETATION PROGRAM. (a) The department may implement a program to control or eradicate nuisance aquatic vegetation, including hydrilla and giant sylvania, from public water in this state.

(b) To implement the program under this section, the department may use money from unclaimed refunds of the tax on fuel used in motorboats appropriated to the department under Section 162.502(c), Tax Code.

(c) The department may contract with a person not employed by the department or use the services of department personnel for the control or eradication of nuisance or noxious vegetation in the water of this state.

SECTION 19A. (a) Chapter 31, Parks and Wildlife Code, is amended by adding Subchapter G to read as follows:

SUBCHAPTER G. PARTY BOATS

Sec. 31.171. DEFINITIONS. In this subchapter:

(1) "Licensed party boat operator" means a person issued a license by the department under this subchapter.

(2) "Party boat" means a vessel:

(A) operated by the owner of the vessel or an employee of the owner; and

(B) rented or leased by the owner for a group recreational event for more than six passengers.

Sec. 31.172. APPLICABILITY; EXCEPTION. (a) This subchapter applies only to a party boat that operates on the inland waters of this state.

(b) This subchapter does not apply to a boat that is less than 30 feet in length or to a sailboat.

Sec. 31.173. PARTY BOAT OPERATOR AND STAFF. (a) Except as provided by Subsection (c), the party boat owner shall provide staff members, including a licensed party boat operator, who:

(1) operate and staff the party boat for the duration of a rental or lease for a group recreational event as follows:

(A) for a boat with not more than 25 passengers, one staff member who is an operator;

(B) for a boat with at least 26 but not more than 50 passengers, two staff members, including one operator; and

(C) for a boat with more than 50 passengers, three staff members, including one operator; and

(2) have each successfully completed a boater safety course approved under this chapter.

(b) At least one staff member on the boat must be certified to conduct cardiopulmonary resuscitation.

(c) This section does not apply to a party boat rented or leased for an overnight or longer period for which the owner, or the owner's staff, does not intend to remain in constant possession, command, and control of the party boat.

Sec. 31.174. BOAT REQUIREMENTS. A party boat:

(1) may not carry more than the maximum number of passengers the boat may safely accommodate as determined by the department on inspection;

(2) must have a direct and reliable communication connection to the land-based office of the owner and law enforcement and emergency services by cellular telephone or very high frequency radio; and

(3) must pass an annual water safety inspection conducted by the department or a person under contract with the department.

Sec. 31.175. PASSENGER SAFETY INFORMATION; INSURANCE. (a) The owner of a party boat shall provide each passenger with written and verbal safety information and require each passenger to sign a form acknowledging that the passenger reviewed and understands the information.

(b) The verbal and written safety information must disclose that no lifeguard is present on the party boat if there is not at least one staff member on the boat who is certified as a lifeguard by the American Red Cross, the American Lifeguard Association, or another comparable nationally recognized organization.

(c) The owner of a party boat must obtain at least a minimum amount of liability insurance from an insurer licensed to do business in this state. The commission shall set the amount.

Sec. 31.176. PARTY BOAT OPERATOR LICENSE. (a) The commission by rule shall establish, as necessary to protect the public health and safety, the requirements and procedures for the issuance and renewal of a party boat operator license under this subchapter.

(b) Except as provided by Subsection (c), the rules for obtaining a license as a party boat operator must require at a minimum that the applicant:

(1) be at least 21 years of age;

(2) observe for at least four hours a licensed party boat operator operating a party boat on open water;

(3) operate for at least four hours a party boat on open water while being supervised and observed by a licensed party boat operator; and

(4) pass a written examination covering onboard safety procedures and the applicable provisions of this chapter.

(c) An applicant is not required to comply with Subsections (b)(2) and (3) if the applicant has:

(1) at least 25 hours of experience operating a party boat as shown by appropriate documentation; and

(2) no record of boating violations.

Sec. 31.177. FEES. (a) The commission by rule shall establish and collect a reasonable fee for:

(1) the issuance of a party boat operator license under this subchapter; and

(2) the annual water safety inspection of a party boat required by this subchapter.

(b) A fee collected by the department under this subchapter and any interest that accrues on the fee shall be deposited to the credit of the game, fish, and water safety account established under Section 11.032.

Sec. 31.178. DRUG AND ALCOHOL TESTING. If a party boat is involved in an accident causing serious personal injury or death, each staff member on board is subject to mandatory drug and alcohol testing.

Sec. 31.179. ENFORCEMENT. (a) In addition to a game warden, any peace officer of a municipality or other political subdivision of this state who is certified as a marine safety enforcement officer under Section 31.121 may enforce this subchapter:

(1) in the area of a navigable body of water that is in the jurisdiction of the municipality or other political subdivision; or

(2) in any part of a lake that is partly or wholly inside the boundaries of:

(A) the municipality or its extraterritorial jurisdiction; or

(B) the political subdivision.

(b) A party boat is subject to enforcement inspections conducted under Section 31.124.

Sec. 31.180. RULES. The commission shall adopt and enforce rules necessary to implement this subchapter.

(b) Not later than January 1, 2008, the Parks and Wildlife Commission shall adopt rules to implement Subchapter G, Chapter 31, Parks and Wildlife Code, as added by this Act.

(c) Subchapter G, Chapter 31, Parks and Wildlife Code, as added by this Act, applies only to the rental or lease of a party boat on the public water of this state for a group recreational event held on or after June 1, 2008.

SECTION 20. Section 12.013, Parks and Wildlife Code, is amended to read as follows:

Sec. 12.013. POWER TO TAKE WILDLIFE; FISH. (a) An employee of the department acting within the scope of the employee's authority may possess, take, transport, release, and manage any of the wildlife and fish in this state for investigation, propagation, distribution, education, disease diagnosis or prevention, or scientific purposes.

(b) A person who is not an employee of the department who is participating under the supervision of a department employee in a program or event designated by the director as being conducted for research or species propagation and as exempt from the normally applicable size or bag limits may possess, take, transport, or release any fish in this state to accomplish the intent of the program or event.

SECTION 21. Subchapter A, Chapter 13, Parks and Wildlife Code, is amended by adding Section 13.0044 to read as follows:

Sec. 13.0044. PREFERENCE FOR CERTAIN PARK PROGRAMS. In selecting parks for capital improvements, the department may give a preference to programs in which the department matches locally raised money on a dollar-for-dollar basis.

SECTION 22. Section 13.0061(a), Parks and Wildlife Code, is amended to read as follows:

(a) The department may lease grazing rights on any state park or any area of a state park. The department may harvest and sell, or sell in place, any timber, hay, livestock, or other product grown on state park land the department finds to be in excess of natural resource management, educational, or interpretive objectives [programming needs]. Timber may be harvested only for forest pest management, salvage, or habitat restoration and under good forestry practices with the advice of the Texas Forest Service.

SECTION 23. Subchapter A, Chapter 13, Parks and Wildlife Code, is amended by adding Section 13.0075 to read as follows:

Sec. 13.0075. ELIGIBILITY CRITERIA FOR INCLUSION OF REAL PROPERTY IN STATE PARKS SYSTEM. (a) The commission by rule shall adopt criteria for determining the eligibility of real property that is donated to the department for inclusion in the state parks system.

(b) The department may accept a donation of real property that satisfies the criteria adopted under Subsection (a).

(c) The department may renovate or restore donated real property, including improvements to the property, or construct new improvements on the donated real property as necessary and prudent.

SECTION 24. Subchapter A, Chapter 13, Parks and Wildlife Code, is amended by adding Section 13.0145 to read as follows:

Sec. 13.0145. SPEED LIMITS. (a) The department shall set and enforce speed limits on a road in a state park, wildlife management area, or other site under the control of the department as follows:

(1) 30 miles per hour on a park road or main drive;

(2) 20 miles per hour on a secondary road; or

(3) as posted by the department.

(b) The department shall:

(1) consult with the Texas Department of Transportation to determine if a speed limit under Subsection (a) is reasonable and safe based on an engineering and traffic control study; and

(2) amend the limit, if necessary.

SECTION 25. Section 13.015, Parks and Wildlife Code, is amended by amending Subsection (b) and adding Subsections (a-1), (a-2), (b-1), (b-2), and (b-3) to read as follows:

(a-1) The commission may waive the park entrance fee for a person who is at least 70 years of age. The commission may not waive the fee for use of a park facility, including a hook-up fee for electricity or water.

(a-2) The department may promote visits and enhance revenue at parks, including amounts necessary for salaries, advertising, consumable supplies and materials, promotional products, fees, and related expenses.

(b) The department may operate or grant contracts to operate concessions in state parks or on causeways, beach drives, or other improvements in connection with state park sites. The department may make regulations governing the

granting or operating of concessions. The department may establish and operate staff concessions, including salaries, consumable supplies and materials, operating expenses, rental and other equipment, and other capital outlays.

(b-1) The department may purchase products, including food items, for resale or rental at a profit.

(b-2) The department shall operate any resale concession program using standard business practice models to generate revenue and provide quality customer service while adhering to conservation principles.

(b-3) The department may recruit and select private service providers to enter into leased concession contracts with the department to provide necessary and appropriate visitor services.

SECTION 26. Section 13.016, Parks and Wildlife Code, is amended to read as follows:

Sec. 13.016. INMATE ~~[PRISON]~~ LABOR. (a) The department may use the labor of an inmate confined in a state, county, or local correctional facility ~~[trustee state convicts]~~ on or in connection with state parks, wildlife management areas, or other property under the control or jurisdiction of the department.

(b) Inmates ~~[Convicts]~~ working in connection with lands under the control or jurisdiction of the department remain under the control of the Texas Department of Criminal Justice or county or local correctional facility, as appropriate, and are considered as serving their terms in the Texas Department of Criminal Justice or other correctional facility ~~[penitentiary].~~

(c) The department may purchase equipment, meals, supplies, and materials for an inmate working at a department site as necessary to facilitate the use of the labor described by this section.

(d) The department may not use the labor of an inmate convicted of an offense listed in Article 62.001(5), Code of Criminal Procedure.

(e) The department may not use the labor of an inmate convicted of any violent offense.

SECTION 27. Section 13.019, Parks and Wildlife Code, is amended to read as follows:

Sec. 13.019. FACILITY RESERVATION SYSTEM AND FEE. (a) The department may permit the advance reservation of a facility, lodging, or campsite at a state park and require the payment of a fee by a person making the reservation.

(b) The department shall annually:

(1) evaluate whether the reservation system used by the department for the advance reservation of facilities, lodging, and campsites is as user-friendly as possible; and

(2) make modifications to the system as necessary to enhance the user-friendliness of the reservation system.

SECTION 28. Subchapter A, Chapter 13, Parks and Wildlife Code, is amended by adding Section 13.0191 to read as follows:

Sec. 13.0191. FACILITY AND LODGING FEES. A fee charged by the department under this subchapter for the use of a facility or lodging at a state park may vary on a seasonal basis and may be set in an amount to recover the direct

and indirect costs of providing the facility or lodging and provide a reasonable rate of return to the department. Items to be considered in setting a fee include the cost required to provide, maintain, and improve amenities available at the site and seasonal variables such as the cost of staffing to meet demand and costs of heating or air conditioning.

SECTION 29. Section 22.023, Parks and Wildlife Code, is amended to read as follows:

Sec. 22.023. DISPOSITION OF INCOME. The department shall use the income derived from leases, royalties, and operation of the park necessary for maintaining, improving, and operating the park. The [One half of the balance of the] unexpended income at the end of the biennium shall be placed in the state treasury to the credit of the [may be used by the department on other] state parks account[, and the remaining one half and any other unexpended balance shall be transferred to the general revenue fund at the end of each biennium].

SECTION 30. Chapter 24, Parks and Wildlife Code, is amended by designating Sections 24.001 through 24.013 as Subchapter A and adding a heading for Subchapter A to read as follows:

SUBCHAPTER A. LOCAL PARKS FOR SMALLER COUNTIES AND MUNICIPALITIES AND OTHER POLITICAL SUBDIVISIONS

SECTION 31. Section 24.001, Parks and Wildlife Code, is amended to read as follows:

Sec. 24.001. DEFINITIONS. In this subchapter ~~[chapter]~~:

(1) "Political subdivision" means a county, municipality ~~[city]~~, special district, river authority, or other governmental entity created under the authority of the state or a county or municipality ~~[city]~~.

(2) "Urban area" means the area within a standard metropolitan statistical area (SMSA) in this state used in the last preceding federal census.

(3) "Park" includes land and water parks owned or operated by the state or a political subdivision.

(4) "Open space area" means a land or water area for human use and enjoyment that is relatively free of man-made structures.

(5) "Natural area" means a site having valuable or vulnerable natural resources, ecological processes, or rare, threatened, or endangered species of vegetation or wildlife.

(6) "Parks, recreational, and open space area plan" means a comprehensive plan that includes information on and analyses of parks, recreational, and open space area objectives, needs, resources, environment, and uses, and that identifies the amounts, locations, characteristics, and potentialities of areas for adequate parks, recreational, and open space opportunities.

(7) "Federal rehabilitation and recovery grants" means matching grants made by the United States to or for political subdivisions for the purpose of rebuilding, remodeling, expanding, or developing existing outdoor or indoor parks, recreational, or open space areas and facilities, including improvements in park landscapes, buildings, and support facilities.

(8) "Account" means the Texas recreation and parks account.

(9) "Rural area" means any area not included in an urban area.

(10) "Cultural resource site or area" means a site or area determined by the commission to have valuable and vulnerable cultural or historical resources.

(11) "Nonprofit corporation" means a nonpolitical legal entity incorporated under the laws of this state that has been granted an exemption from federal income tax under Section 501(c), Internal Revenue Code of 1986, as amended.

(12) "Underserved population" means any group of people that is low income, inner city, or rural as determined by the last census, or minority, physically or mentally challenged youth at risk, youth, or female.

SECTION 32. Section 24.002, Parks and Wildlife Code, is amended to read as follows:

Sec. 24.002. TEXAS RECREATION AND PARKS ACCOUNT. The Texas recreation and parks account is a separate account in the general revenue fund. Money in the account may be used only as provided by this subchapter for grants to:

- (1) a county or municipality with a population of less than 500,000; or
- (2) any other political subdivision that is not a county or municipality.

SECTION 33. Section 24.003, Parks and Wildlife Code, is amended to read as follows:

Sec. 24.003. ACCOUNT REVENUE SOURCE; REVENUE DEDICATION. The department shall deposit to the credit of the Texas recreation and parks account:

- (1) an amount of money equal to 15 [~~\$1,125,000 per month and 40~~] percent of the [~~amount above \$27 million per year of~~] credits made to the department under Section 151.801, Tax Code; and [~~or~~]
- (2) money from any other source authorized by law.

SECTION 34. Section 24.005(e), Parks and Wildlife Code, is amended to read as follows:

(e) The department may provide from the account for direct administrative costs of the programs described by this subchapter [~~chapter~~].

SECTION 35. Section 24.008(a), Parks and Wildlife Code, is amended to read as follows:

(a) No property may be acquired with grant money made under this subchapter [~~chapter~~] or by the department under this subchapter [~~chapter~~] if the purchase price exceeds the fair market value of the property as determined by one independent appraiser.

SECTION 36. Section 24.009, Parks and Wildlife Code, is amended to read as follows:

Sec. 24.009. PAYMENTS, RECORDS, AND ACCOUNTING. (a) On the approval of a grant under this subchapter [~~chapter~~] and on the written request by the director, the comptroller of public accounts shall issue a warrant drawn against the Texas recreation and parks account and payable to the political subdivision or nonprofit corporation in the amount specified by the director.

(b) Each recipient of assistance under this subchapter [~~chapter~~] shall keep records as required by the department, including records which fully disclose the amount and the disposition of the proceeds by the recipient, the total cost of the

acquisition, a copy of the title and deed for the property acquired, the amount and nature of that portion of the cost of the acquisition supplied by other funds, and other records that facilitate effective audit. The director and the comptroller, or their authorized representatives, may examine any book, document, paper, and record of the recipient that are pertinent to assistance received under this subchapter ~~[chapter]~~.

(c) The recipient of funds under this subchapter ~~[chapter]~~ shall, on each anniversary date of the grant for five years after the grant is made, furnish to the department a comprehensive report detailing the present and anticipated use of the property, any contiguous additions to the property, and any major changes in the character of the property, including the extent of park development which may have taken place.

SECTION 37. Section 24.011, Parks and Wildlife Code, is amended to read as follows:

Sec. 24.011. NONCOMPLIANCE WITH SUBCHAPTER [ACT]. The attorney general shall file suit in a court of competent jurisdiction against a political subdivision or nonprofit corporation that fails to comply with the requirements of this subchapter ~~[chapter]~~ to recover the full amount of the grant plus interest on that amount of five percent a year accruing from the time of noncompliance or for injunctive relief to require compliance with this subchapter ~~[chapter]~~. If the court finds that the political subdivision or nonprofit corporation has not complied with the requirements of this subchapter ~~[chapter]~~, it is not eligible for further participation in the program for three years following the finding for noncompliance.

SECTION 38. Section 24.013, Parks and Wildlife Code, is amended to read as follows:

Sec. 24.013. AUTHORITY OF POLITICAL SUBDIVISIONS TO HAVE PARKS. This subchapter ~~[chapter]~~ does not authorize a political subdivision to acquire, develop, maintain, or operate a park, recreational area, open space area, or natural area.

SECTION 39. Chapter 24, Parks and Wildlife Code, is amended by adding Subchapter B to read as follows:

SUBCHAPTER B. PARKS FOR LARGE COUNTIES AND MUNICIPALITIES

Sec. 24.051. DEFINITIONS. In this subchapter:

(1) "Account" means the large county and municipality recreation and parks account.

(2) "Cultural resource site or area" means a site or area determined by the commission to have valuable and vulnerable cultural or historical resources.

(3) "Federal rehabilitation and recovery grants" means matching grants made by the United States to or for political subdivisions for the purpose of rebuilding, remodeling, expanding, or developing existing outdoor or indoor parks, recreational, or open space areas and facilities, including improvements in park landscapes, buildings, and support facilities.

(4) "Large county or municipality" means a county or municipality with a population of 500,000 or more.

(5) "Natural area" means a site having valuable or vulnerable natural resources, ecological processes, or rare, threatened, or endangered species of vegetation or wildlife.

(6) "Nonprofit corporation" means a nonpolitical legal entity incorporated under the laws of this state that has been granted an exemption from federal income tax under Section 501(c), Internal Revenue Code of 1986, as amended.

(7) "Open space area" means a land or water area for human use and enjoyment that is relatively free of man-made structures.

(8) "Park" includes land and water parks owned or operated by the state or a political subdivision.

(9) "Parks, recreational, and open space area plan" means a comprehensive plan that includes information on and analyses of parks, recreational, and open space area objectives, needs, resources, environment, and uses, and that identifies the amounts, locations, characteristics, and potentialities of areas for adequate parks, recreational, and open space opportunities.

(10) "Political subdivision" means a county, municipality, special district, river authority, or other governmental entity created under the authority of the state or a county or municipality.

(11) "Underserved population" means any group of people that is low income or inner city, as determined by the last census, or minority, physically or mentally challenged youth at risk, youth, or female.

Sec. 24.052. LARGE COUNTY AND MUNICIPALITY RECREATION AND PARKS ACCOUNT. The large county and municipality recreation and parks account is a separate account in the general revenue fund. Money in the account may be used only as provided by this subchapter.

Sec. 24.053. ACCOUNT REVENUE SOURCE; DEDICATION. The department shall deposit to the credit of the large county and municipality recreation and parks account:

(1) an amount of money equal to 10 percent of the credits made to the department under Section 151.801, Tax Code; and

(2) money from any other source authorized by law.

Sec. 24.054. ASSISTANCE GRANTS. (a) The department may make grants of money from the account to a large county or municipality for use by the county or municipality as all or part of the county's or municipality's required share of funds for eligibility for receiving a federal rehabilitation and recovery grant.

(b) In order to receive a grant under this section, the county or municipality seeking the federal grant shall apply to the department for the grant and present evidence that the county or municipality qualifies for the federal grant.

(c) A grant under this section is conditioned on the county or municipality qualifying for and receiving the federal grant.

Sec. 24.055. DIRECT STATE MATCHING GRANTS. (a) The department shall make grants of money from the account to a large county or municipality to provide one-half of the costs of the planning, acquisition, or development of a park, recreational area, or open space area to be owned and operated by the county or municipality.

(b) In establishing the program of grants under this section, the department shall adopt rules and regulations for grant assistance.

(c) Money granted to a county or municipality under this section may be used for the operation and maintenance of parks, recreational areas, cultural resource sites or areas, and open space areas only:

(1) if the park, site, or area is owned or operated and maintained by the department and is being transferred by the commission for public use to the county or municipality for operation and maintenance; and

(2) during the period the commission determines to be necessary to effect the official transfer of the park, site, or area.

(d) The department shall make grants of money from the account to a large county or municipality or to a nonprofit corporation for use in a large county or municipality for recreation, conservation, or education programs for underserved populations to encourage and implement increased access to and use of parks, recreational areas, cultural resource sites or areas, and open space areas by underserved populations.

(e) The department may provide from the account for direct administrative costs of the programs described by this subchapter.

Sec. 24.056. FUNDS FOR GRANTS TO LARGE COUNTIES AND MUNICIPALITIES. When revenue to the large county and municipality recreation and parks account exceeds \$14 million per year, an amount not less than 15 percent shall be made available for grants to large counties and municipalities for up to 50 percent of the cost of acquisition or development of indoor public recreation facilities for indoor recreation programs, sports activities, nature programs, or exhibits.

Sec. 24.057. ACCOUNT USE TO BE CONSISTENT WITH PLANS. No grant may be made under Section 24.055 nor may account money be used under Section 24.056 unless:

(1) there is a present or future need for the acquisition and development of the property for which the grant is requested or the use is proposed; and

(2) a written statement is obtained from the regional planning commission having jurisdiction of the area in which the property is to be acquired and developed that the acquisition and development is consistent with local needs.

Sec. 24.058. ACQUISITION OF PROPERTY. (a) No property may be acquired with grant money made under this subchapter or by the department under this subchapter if the purchase price exceeds the fair market value of the property as determined by one independent appraiser.

(b) Property may be acquired with provision for a life tenancy if that provision facilitates the orderly and expedient acquisition of the property.

(c) If land or water designated for park, recreational, cultural resource, or open space use is included in the local and regional park, recreational, cultural resource, and open space plans for two or more large counties or municipalities, the two or more large counties or municipalities may cooperate under state law to secure assistance from the account to acquire or develop the property. In those cases, the department may modify the standards for individual applicants but must be assured that a cooperative management plan for the land or water can be developed and effectuated and that one of the counties or municipalities possesses the necessary qualifications to perform contractual responsibilities for purposes of the grant.

(d) All land or water purchased with assistance from the account shall be dedicated for park, recreational, cultural resource, indoor recreation center, and open space purposes in perpetuity and may not be used for any other purpose, except where the use is compatible with park, recreational, cultural resource, and open space objectives, and the use is approved in advance by the department.

Sec. 24.059. PAYMENTS, RECORDS, AND ACCOUNTING. (a) On the approval of a grant under this subchapter and on the written request by the director, the comptroller shall issue a warrant drawn against the large county and municipality recreation and parks account and payable to the county, municipality, or nonprofit corporation in the amount specified by the director.

(b) Each recipient of assistance under this subchapter shall keep records as required by the department, including records that fully disclose the amount and the disposition of the proceeds by the recipient, the total cost of the acquisition, a copy of the title and deed for the property acquired, the amount and nature of that portion of the cost of the acquisition supplied by other funds, and other records that facilitate effective audit. The director and the comptroller, or their authorized representatives, may examine any book, document, paper, and record of the recipient that are pertinent to assistance received under this subchapter.

(c) The recipient of funds under this subchapter shall, on each anniversary date of the grant for five years after the grant is made, furnish to the department a comprehensive report detailing the present and anticipated use of the property, any contiguous additions to the property, and any major changes in the character of the property, including the extent of park development that may have taken place.

Sec. 24.060. NONCOMPLIANCE WITH SUBCHAPTER. The attorney general shall file suit in a court of competent jurisdiction against a county, municipality, or nonprofit corporation that fails to comply with the requirements of this subchapter to recover the full amount of the grant plus interest on that amount of five percent a year accruing from the time of noncompliance or for injunctive relief to require compliance with this subchapter. If the court finds that the county, municipality, or nonprofit corporation has not complied with the requirements of this subchapter, it is not eligible for further participation in the program for three years following the finding for noncompliance.

Sec. 24.061. ACCOUNT NOT TO BE USED FOR PUBLICITY. No money credited to the account may be used for publicity or related purposes.

Sec. 24.062. AUTHORITY OF LARGE COUNTY OR MUNICIPALITY TO HAVE PARKS. This subchapter does not authorize a large county or municipality to acquire, develop, maintain, or operate a park, recreational area, open space area, or natural area.

SECTION 40. Sections 43.402(a) and (b), Parks and Wildlife Code, are amended to read as follows:

(a) Except as provided by Subsection (b) or (c) of this section, no person may engage in fishing in saltwater for sporting purposes in this state, or unload in this state fish or other aquatic life taken for sporting purposes from waters managed by the Gulf of Mexico Fishery Management Council established under the Fishery Conservation and Management Act of 1976 (16 U.S.C. Section 1801 et seq.), unless the person has acquired a saltwater sportfishing stamp endorsement issued to the person by the department. The commission by rule may prescribe requirements relating to possessing a stamp endorsement required by this subchapter.

(b) A person who is exempted from obtaining a fishing license under Chapter 46 [of this code] is not required to obtain a saltwater sportfishing stamp endorsement.

SECTION 41. Chapter 43, Parks and Wildlife Code, is amended by adding Subchapter V to read as follows:

SUBCHAPTER V. NONINDIGENOUS SNAKE PERMIT

Sec. 43.851. PERMIT. (a) The commission by rule shall establish permits that allow permit holders to possess or transport in this state a live nonindigenous:

- (1) venomous snake; or
- (2) constrictor that is one of the following:
 - (A) African rock python, *Python sebae*;
 - (B) Asiatic rock python, *Python molurus*;
 - (C) green anaconda, *Eunectes murinus*;
 - (D) reticulated python, *Python reticulatus*; or
 - (E) southern African python, *Python natalensis*.

(b) The commission shall establish separate permits for recreational and commercial purposes.

(c) A permit under this subchapter is not required for:

- (1) a state or county official performing an official duty;
- (2) a licensed zoo that possesses or transports a snake for exhibition or scientific purposes;
- (3) a research facility, including a university, licensed under the Animal Welfare Act (7 U.S.C. Section 2131 et seq.) that possesses or transports a snake for scientific purposes; or
- (4) a person who assists a department employee in the handling or transport of a snake under this subchapter.

(d) Except as provided by Subsection (c), a person may not possess or transport in this state a snake described by Subsection (a) without a permit issued by the department under this subchapter.

(e) A person convicted of a violation of this subchapter or a rule adopted under this subchapter may not obtain a permit before the fifth anniversary of the date of the conviction.

Sec. 43.852. INSPECTION OF PERMIT AND RECORDS. An authorized department employee may inspect at any time and without a warrant a permit or any records required by this subchapter.

Sec. 43.853. RELEASE FROM CAPTIVITY. A person may not intentionally, knowingly, recklessly, or with criminal negligence release or allow the release from captivity of a snake covered by this subchapter.

Sec. 43.854. SEIZURE OF CONTRABAND; FINANCIAL RESPONSIBILITY. (a) The department may arrange for the seizure and removal of a snake covered by this subchapter from a person who possesses the snake without the required permit. The person is responsible for any costs incurred by the department in the seizure, removal, and disposition of the snake.

(b) A department employee is not required to handle, remove, or dispose of the snake.

(c) The department may contract with a person who has knowledge of or expertise in the handling of a snake covered by this subchapter to assist the department in the handling, removal, and disposition of the snake.

(d) The department, including an enforcement officer of the department, who acts under this section is not liable in a civil action for the seizure, sale, donation, or other disposition of the snake.

Sec. 43.855. RULES. The commission may adopt rules to implement this subchapter, including rules to govern:

- (1) the possession or transport of a snake covered by this subchapter;
- (2) permit application forms, fees, and procedures;
- (3) the release of the snake;
- (4) reports that the department may require a permit holder to submit to the department; and
- (5) other matters the commission considers necessary.

Sec. 43.856. OFFENSE. (a) Except as provided by Subsection (c), a person who violates this subchapter or a rule adopted under this subchapter commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

(b) A person who violates Section 43.853 or a rule adopted to implement Section 43.853 commits an offense that is a Class A Parks and Wildlife Code misdemeanor.

SECTION 42. Section 46.001, Parks and Wildlife Code, is amended to read as follows:

Sec. 46.001. PROHIBITED ACTS. No person may fish in the public water of this state, or unload in this state fish or other aquatic life taken for sporting purposes from waters managed by the Gulf of Mexico Fishery Management Council established under the Fishery Conservation and Management Act of 1976 (16 U.S.C. Section 1801 et seq.), unless he has acquired a fishing license issued under this subchapter, except as provided by Sections 46.0012 and 46.002 [of this code]. The commission by rule may prescribe requirements relating to possessing a license required by this subchapter.

SECTION 43. Section 62.001, Parks and Wildlife Code, is amended by adding Subdivision (3) to read as follows:

(3) "Public road or right-of-way" means a public street, alley, road, right-of-way, or other public way, including a berm, ditch, or shoulder.

SECTION 44. Subchapter A, Chapter 62, Parks and Wildlife Code, is amended by adding Section 62.0031 to read as follows:

Sec. 62.0031. HUNTING FROM PUBLIC ROAD OR RIGHT-OF-WAY PROHIBITED. (a) Except as provided by Subsection (b), a person may not hunt a wild animal or bird when the person is on a public road or right-of-way.

(b) This section does not apply to the trapping of a raptor for educational or sporting purposes as provided by Chapter 49.

SECTION 45. The heading to Chapter 284, Parks and Wildlife Code, is amended to read as follows:

CHAPTER 284. DIMMIT, EDWARDS, FRIO, IRION, KENEDY, KIMBLE, LLANO, MASON, MAVERICK, REAL, UVALDE, AND ZAVALA COUNTIES

SECTION 46. Section 284.001, Parks and Wildlife Code, is amended by amending Subsections (b) and (d) and adding Subsection (f) to read as follows:

(b) This section applies only to a navigable river or stream located wholly or partly in Dimmit, Edwards, Frio, Irion, Kenedy, Kimble, Llano, Mason, Maverick, Real, Uvalde, or Zavala County.

(d) This section does not apply to:

(1) an individual acting in the scope of the individual's duties as a peace officer or department employee; ~~or~~

(2) the discharge of a shotgun loaded with ammunition that releases only shot when discharged, except as provided by Subsection (f); or

(3) bow fishing.

(f) In Dimmit, Uvalde, or Zavala County, a person may discharge a shotgun loaded with ammunition that releases only shot when discharged only if the person is hunting:

(1) migratory birds, as defined by Section 34.021; or

(2) game animals, as defined by Section 63.001, except mule deer, white-tailed deer, or antelope.

SECTION 47. Section 151.801, Tax Code, is amended by amending Subsection (c) and adding Subsection (c-1) to read as follows:

(c) Subject to Subsection (c-1), the ~~The~~ proceeds from the collection of the taxes imposed by this chapter on the sale, storage, or use of sporting goods shall be deposited as follows:

(1) an amount equal to 94 percent of the proceeds ~~[For the period beginning September 1, 1993, and ending August 31, 1995, an amount equal to 50 cents per 1,000 cigarettes shall be deposited to the credit of the general revenue fund, state parks account, and an amount equal to 50 cents per 1,000 cigarettes shall be deposited to the credit of the general revenue fund, Texas recreation and parks account, and the balance shall be retained in the general revenue fund.]~~

~~[(2) Beginning September 1, 1995, the taxes collected]~~ shall be credited to the Parks and Wildlife Department and deposited as specified in the Parks and Wildlife Code; and

(2) an amount equal to six percent of the proceeds shall be credited to the Texas Historical Commission and deposited as specified in Section 442.073, Government Code. ~~[The comptroller shall not credit in excess of \$32 million in sporting goods tax revenue annually to the Parks and Wildlife Department.]~~

(c-1) The comptroller may not credit to the Parks and Wildlife Department or the Texas Historical Commission any amounts under this section that are in excess of the amounts appropriated to the department or commission for that biennium, less any other amounts to which the department or commission is entitled.

SECTION 48. Sections 442.0022(c) and 442.009(d), Government Code, are repealed.

SECTION 49. Not later than February 1, 2008, the Texas Historical Commission shall adopt the rules required by Sections 442.0055 and 442.006(h), Government Code, as added by this Act.

SECTION 50. (a) The changes in law made by this Act in the prohibitions or qualifications applying to a member of the Texas Historical Commission do not affect the entitlement of a member serving on the Texas Historical Commission immediately before September 1, 2007, to continue to serve and function as a member of the Texas Historical Commission for the remainder of the member's term. Those changes in law apply only to a member appointed on or after September 1, 2007.

(b) The changes in law made by this Act to Section 442.009, Government Code, relating to the investigation of a complaint filed with the Texas Historical Commission apply only to a complaint filed on or after September 1, 2007. A complaint filed with the commission before September 1, 2007, is governed by the law as it existed immediately before that date, and the former law is continued in effect for that purpose.

SECTION 51. Not later than November 1, 2008, the Department of Public Safety of the State of Texas, the Texas Alcoholic Beverage Commission, the Texas Department of Criminal Justice, and the Parks and Wildlife Department shall each:

(1) adopt the standards required by Section 614.152, Government Code, as added by this Act;

(2) test the law enforcement officers to whom the standards apply for compliance with the standards; and

(3) issue a report to the governor, the lieutenant governor, the speaker of the house of representatives, and the legislature that contains the standards adopted by the agency and the rate of compliance by the agency's law enforcement officers.

SECTION 52. The Parks and Wildlife Department shall comply with the recommendations contained in the State Auditor's Office "An Audit Report on Financial Processes at the Parks and Wildlife Department Report No. 07-021" in accordance with the dates specified in the department's management response included as Appendix 6 to the report.

SECTION 53. (a) In this section, "historic site" means a historic site or park listed under Section 442.072, Government Code, as added by this Act.

(b) On or after January 1, 2008, as provided by this section, the following are transferred to the Texas Historical Commission:

(1) each historic site and all obligations and liabilities of the Parks and Wildlife Department relating to the site;

(2) all unobligated and unexpended funds appropriated to the Parks and Wildlife Department designated for the administration of each site;

(3) all equipment and property of the Parks and Wildlife Department used for the administration of or related to each site; and

(4) all files and other records of the Parks and Wildlife Department kept by the department regarding each site.

(c) A rule adopted by the Parks and Wildlife Commission that is in effect immediately before January 1, 2008, and that relates to a historic site is, on January 1, 2008, a rule of the Texas Historical Commission and remains in effect until amended or repealed by the Texas Historical Commission. A rule that applies to both a transferred site and park that is not transferred is a rule of both commissions and applies to the transferred site until amended or repealed by the Texas Historical Commission.

(d) A transfer under this Act does not diminish or impair the rights of a holder of an outstanding bond or other obligation issued by the Parks and Wildlife Department in relation to the support of a historic site.

(e) On January 1, 2008, a reference in the Parks and Wildlife Code or other law to a power, duty, obligation, or liability of the Parks and Wildlife Department or the Parks and Wildlife Commission that relates to a historic site is a reference to the Texas Historical Commission. The Texas Historical Commission is the successor agency to the Parks and Wildlife Department and the Parks and Wildlife Commission for the site.

(f) The Texas Historical Commission shall prepare a base operating plan for each historic site before the transfer of any site or associated artifact or archival materials from the Parks and Wildlife Department to the commission. The base operating plan for each site must be completed on or before January 1, 2008. The base operating plan for each site must include:

(1) a mission statement outlining the goals for the site;

(2) an interpretive plan showing how the mission is to be accomplished;

(3) an operational plan, including:

(A) facilities, documents, records, and other assets to be transferred;

(B) parties responsible for daily site management, including staff that will be transferred;

- (C) off-site support structure;
- (D) plans for artifact and archival curation;
- (E) signed memoranda of understanding or memoranda of agreement with appropriate friends groups and volunteer organizations; and
- (F) emergency plans;
- (4) a maintenance plan, including maintenance and repair needs;
- (5) a marketing plan;
- (6) a business plan, including revenue and visitation goals;
- (7) a plan for compliance with:
 - (A) Chapter 191, Natural Resources Code (the Antiquities Code of Texas); and
 - (B) the National Historic Preservation Act (16 U.S.C. Section 470 et seq.); and
- (8) fiscal plans and budgets associated with Subdivisions (1) through (7) of this subsection.

(g) Not later than September 1, 2007, the chair of the House Committee on Culture, Recreation, and Tourism shall appoint from that committee an interim study subcommittee to review the base operating plan described by Subsection (f) of this section. The interim subcommittee shall obtain feedback and information from professionals familiar with the work of the Parks and Wildlife Department, the Texas Historical Commission, the National Park Service, the Council of Texas Archeologists, professional archivists, park managers, and the tourism industry. Not later than September 1, 2008, the interim study subcommittee shall report to the House Committee on Culture, Recreation, and Tourism on the results of the study conducted under this subsection.

(h) Until a historic site is transferred to the Texas Historical Commission in accordance with this Act, the Parks and Wildlife Department shall continue to operate and maintain the site under applicable law as it existed on January 1, 2007.

(i) The Parks and Wildlife Department and the Texas Historical Commission shall keep the House Committee on Culture, Recreation, and Tourism, the subcommittee on Agriculture, Rural Affairs and Coastal Resources, and the Senate and House members in whose district, a historic site is being transferred, informed of the progress of the transfer of each historic site under this Act.

(j) An employee of the Parks and Wildlife Department whose job responsibilities are more than 50 percent related to a historic site transferred to the Texas Historical Commission under this Act becomes an employee of the Texas Historical Commission on the date of the transfer of that site. An employee whose job is transferred may not be dismissed after the transfer except for cause before the first anniversary of the date of the transfer.

SECTION 54. Any restrictions on the allocation of money in the state parks account under Section 11.035, Parks and Wildlife Code, as amended by this Act, on the use of money in the Texas parks and wildlife conservation and capital account under Section 11.043, Parks and Wildlife Code, as amended by this Act, on the use of money in the Texas recreation and parks account under Section

24.002, Parks and Wildlife Code, as amended by this Act, or on the allocation of that money under Section 24.003, Parks and Wildlife Code, as amended by this Act, do not apply to a one-time appropriation of the unencumbered balances of those accounts on August 31, 2007, made by a rider to the General Appropriations Act that:

(1) is contingent on the enactment of this Act or a similar Act by the 80th Legislature; and

(2) provides for the one-time allocation of that money to the Parks and Wildlife Department and the Texas Historical Commission to be used for the repair, renovation, maintenance, and other one-time costs associated with state historic sites and state parks.

SECTION 55. The name of the Peach Point Wildlife Management Area is changed to the Justin Hurst Wildlife Management Area.

SECTION 56. (a) The House Committee on Culture, Recreation, and Tourism shall conduct a study to determine whether this state should permit the possession of nonindigenous venomous snakes and nonindigenous constrictors as provided by Subchapter V, Chapter 43, Parks and Wildlife Code, as added by this Act.

(b) The study must include:

(1) a comparison of laws regulating nonindigenous snakes in other states;

(2) alternative methods of regulating the possession of nonindigenous snakes;

(3) the economic, environmental, and other effects of allowing nonindigenous snakes to be held in the state, including:

(A) the potential to harbor and spread diseases or parasites, or other adverse effects; and

(B) the economic and other benefits to this state that may be obtained by regulating the trade in nonindigenous snakes; and

(4) other related matters the committee finds useful.

(c) Not later than November 1, 2008, the committee shall report its findings to the governor, the executive directors of the Parks and Wildlife Department, and each member of the committee.

SECTION 57. (a) The Parks and Wildlife Commission shall adopt the rules necessary under Subchapter V, Chapter 43, Parks and Wildlife Code, as added by this Act, not later than April 1, 2008.

(b) The Parks and Wildlife Department shall begin issuing permits under Subchapter V, Chapter 43, Parks and Wildlife Code, as added by this Act, not later than April 1, 2008.

SECTION 58. (a) The joint legislative task force on the use of the sales tax on sporting goods is composed of eight members, as follows:

(1) two members of the House Culture, Recreation and Tourism Committee, one being the chair of the committee and one appointed by the speaker of the house of representatives;

(2) two members, each of whom must be a member of the House Appropriations Committee or House Ways and Means Committee, as appointed by the speaker of the house of representatives;

(3) two members of the Senate Committee on Natural Resources, one being the chair of the committee and one appointed by the lieutenant governor; and

(4) two members of the Senate Committee on Finance, appointed by the lieutenant governor.

(b) The speaker of the house of representatives shall designate the chair of the House Committee on Culture, Recreation, and Tourism to serve as a joint presiding officer of the task force, and the lieutenant governor shall designate another task force member to serve as the other joint presiding officer.

(c) The task force meets at the call of the joint presiding officers.

(d) The task force shall:

(1) review the items that are included in the definition of "sporting goods" under Section 151.801(e), Tax Code;

(2) determine the amount of sales tax revenue that must be generated from the sale of "sporting goods" to fund, at a minimum, the appropriations made by the 80th Legislature regarding state parks, local parks, historic sites, coastal management programs, and water planning;

(3) not later than December 15, 2008, prepare and present to the legislature a report that describes the findings of the task force and includes recommendations regarding the specific items that should be included in the definition of "sporting goods" under Section 151.801(e), Tax Code, in order to more evenly match the revenue streams needed to cover ongoing appropriations (estimated to be \$70 million per annum), net of the use of unexpended balances in 2008-2009 biennium, without creating large dedicated fund balances.

(e) It is the intent of the 80th Legislature that Section 151.801(c-1), Tax Code, as added by this Act, be repealed on adoption of a statute implementing the recommendations of the task force.

SECTION 59. If the Parks and Wildlife Department does not receive a grant of funds from the Department of Transportation, the Parks and Wildlife Department may spend no more than \$50,000 to maintain a river-access point and picnic area in Zavala County that is adjacent to the Nueces River and United States Highway 83 intersection north of La Pryor, Texas. If the Parks and Wildlife Department receives a grant of funds from the Department of Transportation, the Parks and Wildlife Department may not spend money, other than money received under the grant, on maintenance described by this section.

SECTION 60. (a) The Parks and Wildlife Department shall conduct a study of ways to improve the efficiency and ease of use of the department's hunting and fishing license systems. The study must:

(1) evaluate the efficiency of the hunting and fishing license systems in effect on September 1, 2007;

(2) identify problems and suggest improvements to those systems; and

(3) identify ways to increase ease of use for individuals applying for a hunting or fishing license in this state.

(b) The Parks and Wildlife Department shall complete the study conducted under Subsection (a) of this section not later than July 1, 2008.

(c) Not later than October 1, 2008, the Parks and Wildlife Department shall submit to the governor, the lieutenant governor, the speaker of the house of representatives, and the chair of each committee of the legislature that has primary oversight jurisdiction over the department a written report that summarizes the findings of the study conducted under Subsection (a) of this section.

SECTION 61. (a) Except as provided by Subsections (b) and (c) of this section, this Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

(b) The following take effect September 1, 2007:

(1) Sections 442.002, 442.0021, 442.0022, 442.004, 442.0055, 442.006, and 442.009, Government Code, as amended by this Act;

(2) Sections 442.022 and 442.023, Government Code, as added by this Act;

(3) Subchapter H, Chapter 614, Government Code, as added by this Act;

(4) Sections 12.013, 12.306, 43.402, 46.001, 62.011, 65.0072, 65.008, and 284.001, Parks and Wildlife Code, as amended by this Act; and

(5) except as provided by Subsection (c) of this section, Subchapter V, Chapter 43, Parks and Wildlife Code, as added by this Act.

(c) Sections 43.851(d) and 43.856, Parks and Wildlife Code, as added by this Act, take effect April 1, 2008.

Representative Hilderbran moved to adopt the conference committee report on **HB 12**.

(Coleman, Deshotel, and Naishtat now present)

A record vote was requested.

The motion to adopt the conference committee report on **HB 12** prevailed by (Record 1998): 139 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Creighton; Crownover; Darby; Davis, J.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno;

Morrison; Mowery; Murphy; Naishtat; O'Day; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Truitt; Turner; Van Arsdale; Vaught; Veasey; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent — Chavez; Crabb; Davis, Y.; Haggerty; King, T.; Miles; Noriega; Oliveira; Thompson; Villarreal.

STATEMENT OF VOTE

When Record No. 1998 was taken, I was in the house but away from my desk. I would have voted yes.

Crabb

HR 2890 - ADOPTED (by Truitt)

Representative Truitt moved to suspend Rule 8, Section 13 to take up and consider at this time **HR 2890**.

The motion prevailed.

The following privileged resolution was laid before the house:

HR 2890

BE IT RESOLVED by the House of Representatives of the State of Texas, 80th Legislature, Regular Session, 2007, That House Rule 13, Section 9(a), be suspended in part as provided by House Rule 13, Section 9(f), to enable the conference committee appointed to resolve the differences on **HB 3249** (the powers and duties of, and entities reviewed by, the Sunset Advisory Commission) to consider and take action on the following matters:

(1) House Rule 13, Sections 9(a)(3) and (4) are suspended to permit the committee to add the following SECTIONS to the bill:

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

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

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

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

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

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

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

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

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

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

(2) House Rule 13, Sections 9(a)(3) and (4) are suspended to permit the committee to add the following SECTIONS to the bill:

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

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

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

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

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

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

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

(3) House Rule 13, Sections 9(a)(3) and (4) are suspended to permit the committee to add the following SECTION to the bill:

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

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

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

HR 2890 was adopted.

HB 3249 - RULES SUSPENDED

Representative Truitt moved to suspend all necessary rules to consider the conference committee report on **HB 3249**.

The motion prevailed.

HB 3249 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Truitt submitted the following conference committee report on **HB 3249**:

Austin, Texas, May 26, 2007

The Honorable David Dewhurst
President of the Senate

The Honorable Tom Craddick
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 3249** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Whitmire

Hegar

Deuell

Harris

Brimer

On the part of the senate

Flynn

Kolkhorst

B. Cook

McClendon

Truitt

On the part of the house

HB 3249, A bill to be entitled An Act relating to the powers and duties of, and the entities reviewed by, the Sunset Advisory Commission.

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

ARTICLE 1. CHANGES TO TEXAS SUNSET ACT

SECTION 1.01. Sections 325.003(a), (b), (d), (e), and (j), Government Code, are amended to read as follows:

(a) The Sunset Advisory Commission consists of five members of the senate and one public member appointed by the lieutenant governor and five members of the house of representatives and one public member appointed by the speaker of the house. The lieutenant governor and the speaker of the house ~~[Each appointing authority]~~ may serve ~~[designate himself]~~ as one of the legislative appointees.

(b) An individual is not eligible for appointment as a public member if the individual or the individual's spouse is:

(1) regulated by a state agency that the commission will review during the term for which the individual would serve; ~~[or]~~

(2) employed by, participates in the management of, or directly or indirectly has more than a 10 percent interest in a business entity or other organization regulated by a state agency the commission will review during the term for which the individual would serve; or

(3) required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a profession or entity related to the operation of an agency under review.

(d) Legislative members serve four-year terms, with terms staggered so that the terms of as near to one-half of the legislative members appointed by the lieutenant governor as possible and the terms of as near to one-half of the legislative members appointed by the speaker as possible expire September 1 of each odd-numbered year. If the lieutenant governor or the speaker serves on the commission, service [he] continues [to serve] until resignation from the commission or until the individual ~~[he]~~ ceases to hold the office. Public members serve two-year terms expiring September 1 of each odd-numbered year.

(e) Members other than the lieutenant governor and the speaker are subject to the following restrictions:

(1) after an individual serves six years on the commission, the individual is not eligible for appointment to another term or part of a term;

(2) a legislative member who serves ~~[more than half of]~~ a full term may not be appointed to an immediately succeeding term; and

(3) a public member may not serve more than two consecutive terms, and, for purposes of this prohibition, a member is considered to have served a term only if the member has served more than half of the term.

(j) Seven members of the commission constitute a quorum. A final action or recommendation may not be made unless approved by a record vote of a majority of members appointed by the lieutenant governor and the speaker of the house [the commission's full membership]. All other actions by the commission shall be decided by a majority of the members present and voting.

SECTION 1.02. Section 325.007, Government Code, is amended to read as follows:

Sec. 325.007. AGENCY REPORT TO COMMISSION. Before September 1 ~~[October 30]~~ of the odd-numbered year before the year in which a state agency subject to this chapter is abolished, the agency shall report to the commission:

(1) information regarding the application to the agency of the criteria in Section 325.011; and

(2) any other information that the agency considers appropriate or that is requested by the commission.

SECTION 1.03. Section 325.008(a), Government Code, is amended to read as follows:

(a) Before January ~~[September]~~ 1 of ~~[the even-numbered year before]~~ the year in which a state agency subject to this chapter and its advisory committees are abolished, the commission shall:

(1) review and take action necessary to verify the reports submitted by the agency under Section 325.007;

(2) consult the Legislative Budget Board, the Governor's Budget, Policy, and Planning Division ~~[Office]~~, the State Auditor, and the comptroller of public accounts, or their successors, on the application to the agency of the criteria provided in Section 325.011;

(3) conduct a review ~~[performance evaluation]~~ of the agency based on the criteria provided in Section 325.011 and prepare a written report; and

(4) review the implementation of commission recommendations contained in the reports presented to the legislature during the preceding legislative session and the resulting legislation.

SECTION 1.04. Section 325.009, Government Code, is amended to read as follows:

Sec. 325.009. PUBLIC HEARINGS. (a) Before February ~~[Between September 1 and December]~~ 1 of ~~[the calendar year before]~~ the year a state agency subject to this chapter and its advisory committees are abolished, the commission shall conduct public hearings concerning but not limited to the application to the agency of the criteria provided in Section 325.011.

(b) The commission may hold the public hearings after ~~[before September 1 if]~~ the review ~~[evaluation]~~ of the agency required by Section 325.008(a)(3) is complete and available to the public.

SECTION 1.05. Section 325.010, Government Code, is amended to read as follows:

Sec. 325.010. COMMISSION REPORT. (a) At each regular legislative session, the commission shall present to the legislature and the governor a report on the agencies and advisory committees reviewed ~~[scheduled to be abolished]~~.

(b) In the report the commission shall include:

(1) its ~~[specific]~~ findings regarding ~~[each of]~~ the criteria prescribed by Section 325.011;

(2) its recommendations based on the matters prescribed by Section 325.012; and

(3) other information the commission considers necessary for a complete review ~~[evaluation]~~ of the agency.

SECTION 1.06. Section 325.011, Government Code, is amended to read as follows:

Sec. 325.011. CRITERIA FOR REVIEW. The commission and its staff shall consider the following criteria in determining whether a public need exists for the continuation of a state agency or its advisory committees or for the performance of the functions of the agency or its advisory committees:

(1) the efficiency and effectiveness with which the agency or the advisory committee operates;

(2)(A) an identification of the mission, goals, and objectives intended for the agency or advisory committee and of the problem or need that the agency or advisory committee was intended to address; and

(B) [.] the extent to which the mission, goals, and objectives have been achieved and the problem or need has been addressed;

(3)(A) an identification of ~~[, and]~~ any activities of the agency in addition to those granted by statute and of the authority for those ~~[these]~~ activities; and

(B) the extent to which those activities are needed;

(4) ~~[(2)]~~ an assessment of authority of the agency relating to fees, inspections, enforcement, and penalties;

(5) whether less restrictive or alternative methods of performing any function ~~[regulation]~~ that the agency performs ~~[that]~~ could adequately protect or provide service to the public;

(6) ~~[(4)]~~ the extent to which the advisory committee is needed and is used;

~~[(5)]~~ the extent to which the jurisdiction of the agency and the programs administered by the agency overlap or duplicate those of other agencies, the extent to which the agency coordinates with those agencies, and the extent to which the programs administered by the agency can be consolidated with the programs of other state agencies;

(7) ~~[(6)]~~ whether the agency has recommended to the legislature statutory changes calculated to be of benefit to the public rather than to an occupation, business, or institution that the agency regulates;

~~[(7)]~~ the promptness and effectiveness with which the agency addresses ~~[disposes of]~~ complaints concerning entities or other persons affected by the agency, including an assessment of the agency's administrative hearings process;

(8) an assessment of the agency's rulemaking process and the extent to which the agency has encouraged participation by the public in making its rules and decisions ~~[as opposed to participation solely by those it regulates]~~ and the extent to which the public participation has resulted in rules that benefit the public ~~[compatible with the objectives of the agency];~~

(9) the extent to which the agency has complied with ~~[applicable requirements of]~~:

(A) federal and state laws and applicable rules ~~[an agency of the United States or of this state]~~ regarding equality of employment opportunity and the rights and privacy of individuals; and

(B) state law and applicable rules of any state agency regarding purchasing guidelines ~~[goals]~~ and programs for historically underutilized businesses;

(10) ~~[the extent to which changes are necessary in the enabling statutes of the agency so that the agency can adequately comply with the criteria listed in this section;~~

~~[(11)]~~ the extent to which the agency issues and enforces rules relating to potential conflicts of interest of its employees;

(11) ~~[(12)]~~ the extent to which the agency complies with Chapters 551 and 552 and follows records management practices that enable the agency to respond efficiently to requests for public information; and

(12) ~~[(13)]~~ the effect of federal intervention or loss of federal funds if the agency is abolished.

SECTION 1.07. Section 325.012, Government Code, is amended to read as follows:

Sec. 325.012. RECOMMENDATIONS. (a) In its report on a state agency, the commission shall:

(1) make recommendations on the abolition, continuation, or reorganization of each affected state agency and its advisory committees and on the need for the performance of the functions of the agency and its advisory committees;

(2) make recommendations on the consolidation, transfer, or reorganization of programs within state agencies not under review when the programs duplicate functions performed in agencies under review; and

(3) make recommendations to improve the operations of the agency, its policy body, and its advisory committees, including management recommendations that do not require a change in the agency's enabling statute.

(b) The commission shall include the estimated fiscal impact of its recommendations and may recommend appropriation levels for certain programs to improve the operations of the state agency, to be forwarded to the Legislative Budget Board.

(c) The commission shall have ~~[recommend appropriation levels for each state agency and advisory committee for which abolition or reorganization is recommended under Subdivision (1) or (2); and~~

~~[(4) include]~~ drafts of legislation prepared ~~[necessary]~~ to carry out the commission's recommendations under this section ~~[Subdivisions (1) and (2)].~~

(d) After the legislature acts on the report ~~[(b) On the date the commission presents its report to the legislature]~~ under Section 325.010, the commission shall present to the state auditor the commission's recommendations that do not require a statutory change to be put into effect. Based on a risk assessment and subject to the legislative audit committee's approval of including the examination in the audit plan under Section 321.013, the state auditor may examine the recommendations and include as part of the next approved audit of the agency a report on whether the agency has implemented the recommendations and, if so, in what manner.

SECTION 1.08. Section 325.0125, Government Code, is amended to read as follows:

Sec. 325.0125. REVIEW OF CERTAIN AGENCIES. (a) In the two-year period preceding the date scheduled for the abolition of a state agency under this chapter, the commission may exempt certain agencies from the requirements of this chapter relating to staff reports, hearings, and reviews ~~evaluations~~.

(b) The commission may only exempt agencies that have been inactive for a period of two years preceding the date the agency is scheduled for abolition or that have been rendered inactive by an action of the legislature.

(c) The commission's action in exempting agencies under this section must be done by an affirmative record vote and must be decided by a majority of all members present and voting ~~[of the commission].~~

SECTION 1.09. Section 325.016, Government Code, is repealed.

SECTION 1.10. Section 325.017(e), Government Code, is amended to read as follows:

(e) Unless the governor designates an appropriate state agency as prescribed by Subsection (f), property and records in the custody of an abolished state agency or advisory committee on September 1 of the even-numbered year after abolishment shall be transferred to the Texas Building and Procurement ~~State Purchasing and General Services~~ Commission. If the governor designates an appropriate state agency, the property and records shall be transferred to the designated state agency.

SECTION 1.11. Section 325.020, Government Code, is amended to read as follows:

Sec. 325.020. RELOCATION OF EMPLOYEES. If an employee is displaced because a state agency or its advisory committee is abolished, reorganized, or continued, the state agency and the Texas Workforce ~~Employment~~ Commission shall make a reasonable effort to relocate the displaced employee.

SECTION 1.12. Section 325.022, Government Code, is amended to read as follows:

Sec. 325.022. REVIEW OF PROPOSED LEGISLATION CREATING AN [REGULATORY] AGENCY. (a) Each bill filed in a house of the legislature that would create a new state agency ~~[having regulatory authority]~~ or a new advisory committee to a state agency [having regulatory authority] shall be reviewed by ~~[forwarded to]~~ the commission.

(b) The commission shall review the bill to determine if:

(1) the proposed [regulatory and other] functions of the agency or committee could be administered by one or more existing state agencies or advisory committees;

(2) the form of regulation, if any, proposed by the bill is the least restrictive form of regulation that will adequately protect the public;

(3) the bill provides for adequate public input regarding any regulatory function proposed by the bill; and

(4) the bill provides for adequate protection against conflicts of interest within the agency or committee.

(c) On request [~~After reviewing the bill~~], the commission shall forward a written comment on the legislation to the author of the bill and to the presiding officer of the committee to which the bill is referred.

ARTICLE 2. ENTITIES GIVEN 2009 SUNSET DATE

SECTION 2.01. DEPARTMENT OF AGRICULTURE. Section 11.003, Agriculture Code, is amended to read as follows:

Sec. 11.003. SUNSET PROVISION. The Department of Agriculture is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the department is abolished September 1, 2009 [2011].

SECTION 2.02. TEXAS-ISRAEL EXCHANGE FUND BOARD. Section 45.006(i), Agriculture Code, is amended to read as follows:

(i) The Texas-Israel Exchange Fund Board [~~board~~] is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished and this chapter expires September 1, 2009 [2011].

SECTION 2.03. BOARD OF DIRECTORS OF THE OFFICIAL COTTON GROWERS' BOLL WEEVIL ERADICATION FOUNDATION. Section 74.127(a), Agriculture Code, is amended to read as follows:

(a) The board of directors of the official cotton growers' boll weevil eradication foundation is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished and this subchapter expires September 1, 2009 [2011].

SECTION 2.04. PRESCRIBED BURNING BOARD. Section 153.044, Natural Resources Code, is amended to read as follows:

Sec. 153.044. SUNSET PROVISION. The Prescribed Burning Board is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished and this chapter expires September 1, 2009 [2011].

SECTION 2.05. PARKS AND WILDLIFE DEPARTMENT. Section 11.0111, Parks and Wildlife Code, is amended to read as follows:

Sec. 11.0111. SUNSET PROVISION. The Parks and Wildlife Department is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the department is abolished September 1, 2009 [2011].

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

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

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

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

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

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

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

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

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

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

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

ARTICLE 3. ENTITIES GIVEN 2011 SUNSET DATE

SECTION 3.01. HEALTH AND HUMAN SERVICES COMMISSION. Section 531.004, Government Code, is amended to read as follows:

Sec. 531.004. SUNSET PROVISION. The Health and Human Services Commission is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission is abolished and this chapter expires September 1, 2011 ~~[2009]~~.

SECTION 3.02. TEXAS CANCER COUNCIL. Section 102.003, Health and Safety Code, is amended to read as follows:

Sec. 102.003. SUNSET PROVISION. The Texas Cancer Council is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the council is abolished and this chapter expires September 1, 2011 ~~[2009]~~.

SECTION 3.03. DEPARTMENT OF STATE HEALTH SERVICES. Section 1001.003, Health and Safety Code, is amended to read as follows:

Sec. 1001.003. SUNSET PROVISION. The Department of State Health Services ~~[department]~~ is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the department is abolished and this chapter expires September 1, 2011 ~~[2009]~~.

SECTION 3.04. DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES. Section 40.003, Human Resources Code, is amended to read as follows:

Sec. 40.003. SUNSET PROVISION. The Department of Family and Protective Services is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the department is abolished and this chapter expires September 1, 2011 ~~[2009]~~.

SECTION 3.05. TEXAS COUNCIL FOR DEVELOPMENTAL DISABILITIES. Section 112.023, Human Resources Code, is amended to read as follows:

Sec. 112.023. SUNSET PROVISION. The Texas Council for Developmental Disabilities is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the council is abolished and this chapter expires September 1, 2011 ~~[2009]~~.

SECTION 3.06. GOVERNOR'S COMMITTEE ON PEOPLE WITH DISABILITIES. Section 115.005, Human Resources Code, is amended to read as follows:

Sec. 115.005. SUNSET PROVISION. The Governor's Committee on People with Disabilities is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the committee is abolished and this chapter expires September 1, 2011 ~~[2009]~~.

SECTION 3.07. DEPARTMENT OF ASSISTIVE AND REHABILITATIVE SERVICES. Section 117.003, Human Resources Code, is amended to read as follows:

Sec. 117.003. SUNSET PROVISION. The Department of Assistive and Rehabilitative Services ~~[department]~~ is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the department is abolished and this chapter expires September 1, 2011 ~~[2009]~~.

SECTION 3.08. DEPARTMENT OF AGING AND DISABILITY SERVICES. Section 161.003, Human Resources Code, is amended to read as follows:

Sec. 161.003. SUNSET PROVISION. The Department of Aging and Disability Services ~~[department]~~ is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the department is abolished and this chapter expires September 1, 2011 ~~[2009]~~.

SECTION 3.09. TEXAS DEPARTMENT OF INSURANCE, DIVISION OF WORKERS' COMPENSATION. Section 31.004(b), Insurance Code, is amended to read as follows:

(b) Unless continued as provided by Chapter 325, Government Code, the duties of the division of workers' compensation of the Texas Department of Insurance under Title 5, Labor Code, expire September 1, 2011 ~~[2009]~~, or another date designated by the legislature.

SECTION 3.10. OFFICE OF INJURED EMPLOYEE COUNSEL. Section 404.003, Labor Code, is amended to read as follows:

Sec. 404.003. SUNSET PROVISION. The office of injured employee counsel is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the office is abolished and this chapter expires September 1, 2011 ~~[2009]~~.

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

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

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

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

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

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

ARTICLE 4. ENTITIES GIVEN 2013 SUNSET DATE

SECTION 4.01. STATE PRESERVATION BOARD. Section 443.002, Government Code, is amended to read as follows:

Sec. 443.002. SUNSET PROVISION. The State Preservation Board is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished and this chapter expires September 1, 2013 ~~[2011]~~.

SECTION 4.02. TEXAS WORKFORCE COMMISSION. Section 301.008, Labor Code, is amended to read as follows:

Sec. 301.008. APPLICATION OF SUNSET ACT. The Texas Workforce Commission is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission is abolished September 1, 2013 ~~[2009]~~.

SECTION 4.03. STATE BOARD OF EXAMINERS FOR SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY. Section 401.002, Occupations Code, is amended to read as follows:

Sec. 401.002. APPLICATION OF SUNSET ACT. The State Board of Examiners for Speech-Language Pathology and Audiology is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished and this chapter expires September 1, 2013 ~~[2009]~~.

SECTION 4.04. STATE COMMITTEE OF EXAMINERS IN THE FITTING AND DISPENSING OF HEARING INSTRUMENTS. Section 402.002, Occupations Code, is amended to read as follows:

Sec. 402.002. APPLICATION OF SUNSET ACT. The State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the committee is abolished and this chapter expires September 1, 2013 ~~[2009]~~.

SECTION 4.05. EXECUTIVE COUNCIL OF PHYSICAL THERAPY AND OCCUPATIONAL THERAPY EXAMINERS. Section 452.002, Occupations Code, is amended to read as follows:

Sec. 452.002. APPLICATION OF SUNSET ACT. The Executive Council of Physical Therapy and Occupational Therapy Examiners is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the executive council is abolished and the following laws expire September 1, 2013 ~~[2009]~~:

- (1) this chapter;
- (2) Chapter 453; and
- (3) Chapter 454.

SECTION 4.06. TEXAS BOARD OF PHYSICAL THERAPY EXAMINERS. Section 453.002, Occupations Code, is amended to read as follows:

Sec. 453.002. APPLICATION OF SUNSET ACT. The Texas Board of Physical Therapy Examiners is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished and this chapter expires September 1, 2013 ~~[2009]~~.

SECTION 4.07. TEXAS BOARD OF OCCUPATIONAL THERAPY EXAMINERS. Section 454.003, Occupations Code, is amended to read as follows:

Sec. 454.003. APPLICATION OF SUNSET ACT. The Texas Board of Occupational Therapy Examiners is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished and this chapter expires September 1, 2013 [2009].

SECTION 4.08. TEXAS BOARD OF ORTHOTICS AND PROSTHETICS. Section 605.003, Occupations Code, is amended to read as follows:

Sec. 605.003. APPLICATION OF SUNSET ACT. The Texas Board of Orthotics and Prosthetics is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished and this chapter expires September 1, 2013 [2009].

SECTION 4.09. SELF-DIRECTED SEMI-INDEPENDENT AGENCY PROJECT. Section 4(c), Self-Directed Semi-Independent Agency Project Act (Article 8930, Revised Statutes), is amended to read as follows:

(c) This Act is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, this Act expires September 1, 2013 [2009].

ARTICLE 5. ENTITY REMOVED FROM SPECIFIC SUNSET REVIEW

SECTION 5.01. REPEALER. Section 435.003, Government Code (Texas Military Facilities Commission sunset provision), is repealed.

ARTICLE 6. SPECIAL PURPOSE REVIEW

SECTION 6.01. TEXAS MEDICAL BOARD. The Sunset Advisory Commission shall conduct a special purpose review of the Texas Medical Board as part of the commission's review of agencies for the 81st Legislature. The commission's report to the 81st Legislature regarding the review of the Texas Medical Board must include:

(1) an evaluation of the board's management efforts to comply with legislative direction and performance measure targets; and

(2) any recommendations the commission considers appropriate based on the review of the board.

ARTICLE 7. EFFECTIVE DATE

SECTION 7.01. EFFECTIVE DATE. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

Representative Truitt moved to adopt the conference committee report on **HB 3249**.

A record vote was requested.

The motion to adopt the conference committee report on **HB 3249** prevailed by (Record 1999): 139 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton;

Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno; Morrison; Mowery; Murphy; Naishtat; O'Day; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent — Castro; Chavez; Davis, Y.; Goolsby; Haggerty; Miles; Noriega; Oliveira; Rose; Thompson.

STATEMENT OF VOTE

When Record No. 1999 was taken, I was in the house but away from my desk. I would have voted yes.

Miles

HB 1565 - RULES SUSPENDED

Representative Puente moved to suspend all necessary rules to consider the conference committee report on **HB 1565**.

The motion prevailed.

HB 1565 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Puente submitted the following conference committee report on **HB 1565**:

Austin, Texas, May 26, 2007

The Honorable David Dewhurst
President of the Senate

The Honorable Tom Craddick
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 1565** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Uresti
Averitt
Van de Putte
Hegar
Wentworth
On the part of the senate

Puente
Corte
Flores
Guillen
Leibowitz
On the part of the house

HB 1565, A bill to be entitled An Act relating to the powers and duties of the Bexar Metropolitan Water District.

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

ARTICLE 1

SECTION 1.1. Section 3, Chapter 306, Acts of the 49th Legislature, Regular Session, 1945, is amended to read as follows:

Sec. 3. In addition to the powers vested by the Constitution and general laws in such public agency for the greatest practicable measure of the conservation, preservation, and beneficial utilization of its public waters, the power to control and utilize its public waters and to regulate the disposal and the disposal of sewage, waste, and refuse, the District shall have the following general powers:

(a) Through every practical and legal means to develop, transport, deliver, distribute, store, and treat water for use within the District, including the storm and flood waters within the District, including the power to cooperate with the United States Government or any agency thereof, or any municipality, public, quasi-public or private agency and to contract, negotiate, and enter into agreements with any one or more of such agencies in effecting such purposes;

~~(b) [to store, control, and conserve storm and flood waters of its rivers and streams and to prevent the escape of any such waters without first obtaining therefrom a maximum of public service; to prevent devastation of property from overflow and to protect life and property from uncontrolled flood and storm waters;~~

~~[(c)]~~ to conserve and distribute waters essential for domestic and other uses by the inhabitants of the District, including necessary water supply for cities and towns situated within the District;

~~(c) [(d) to provide for the development of drainage systems to control, regulate, and dispose of all storm and flood waters of the District so as to protect effectively lives and property, and to utilize such waters for each and every purpose for which flood and storm waters when controlled, conserved, or regulated may be utilized as contemplated by the Constitution and the public policy therein declared;~~

~~[(e)]~~ to provide by purchase, construction, lease, gift, or in any other manner and to operate any and all facilities deemed by the District essential for preserving the purity of all the surface and underground waters of the District for the protection of the health of its inhabitants, and to formulate plans to make and enforce rules and regulations for the effective disposal of any and all sewage wastes, refuse, or residuum, however accumulated; which otherwise would contaminate, pollute, or render unsafe and insanitary the surface and underground waters of the District and which might threaten or impair the health of its inhabitants or which might adversely affect the health of the inhabitants downstream below the District;

~~(d) [(f)]~~ to acquire by purchase, construction, lease, gift, or in any other manner (otherwise than by condemnation) and to maintain, use, and operate any and all property of any kind, real, personal, or mixed, or any interest therein

within or without the boundaries of the District deemed by its Board of Directors necessary or convenient to the exercise of the powers, rights, privileges, and functions conferred upon it by this Act;

(e) [~~(e)~~] to acquire by condemnation any and all property of any kind, real, personal, or mixed, or any interest therein, within or outside of the boundaries of the District, necessary to the exercise of the powers, rights, privileges, and functions conferred by this Act, in the manner provided by General Law relative to condemnation, or at the option of the District, in the manner provided by law with respect to condemnation by agencies organized pursuant to Section 59, Article 16 of the Constitution of the State of Texas; provided that the District shall not have the right or power to so condemn any such property that may be owned by any other political subdivision, city, or town located within the District;

(f) [~~(f)~~] to cooperate, contract, and enter into agreements with towns, cities, districts, or political subdivisions located in or outside of the District and with Bexar County, in the construction, purchase, lease, maintenance, improvement, use, and operation of any and all facilities, works, and plants necessary or convenient to the accomplishment of the purposes for which the District was created;

(g) [~~(g)~~] to make contracts with any person, private corporation, municipal corporation, political subdivision, or the Board of Trustees thereof, operating water distribution facilities for the benefit of a city or town within the District, under which the District may perform services for such parties or such parties may perform services for the District, or under which either may operate all or any part of the facilities of the other, having due regard for the duties and obligations of such parties in the instrument prescribing their or its duties;

(h) [~~(h)~~] to construct, extend, improve, maintain, and reconstruct, to cause to be constructed, extended, improved, maintained, or reconstructed and to use and operate any and all facilities of any kind necessary or convenient to the exercise of the powers, rights, privileges, and functions conferred by this Act;

(i) [~~(i)~~] to sue and be sued in its corporate name;

(j) [~~(j)~~] to make by-laws for the management and regulation of its affairs conformably to the powers and purposes herein conferred and consistent with the Constitution of this State;

(k) [~~(k)~~] to make rules and regulations and to prescribe penalties for the breach of any rule or regulation of the District, which penalties shall not exceed fines of more than Two Hundred Dollars (\$200), or imprisonment for more than thirty (30) days, or may provide both such fine and such imprisonment. The penalties hereby authorized shall be in addition to any other penalties provided by the laws of Texas and may be enforced by complaints filed in the appropriate court of jurisdiction in the county in which the district's principal office is located; provided, however, that no rule or regulation which provides a penalty for the violation thereof shall be in effect, as to enforcement of the penalty, until five days next after the district may have caused a substantive statement of the particular rule or regulation and the penalty for the violation thereof to be published, once a week for two consecutive weeks, in one or more

newspapers affording general circulation in the area in which the property of the district is situated; and, the substantive statement so to be published shall be as condensed as is possible to afford an intelligent direction of the mind to the object sought to be accomplished or the act forbidden by the rule or regulation; one notice may embrace any number of regulations; there must be embraced in the notice advice that breach of the particular regulation, or regulations, will subject the violator to the infliction of a penalty and there also shall be included in the notice advice that the full text of the regulation sought to be enforced is on file in the principal office of the District, where the same may be read by any interested person. Five (5) days after the second publication of the notice hereby required, the advertised regulation shall be in effect, and ignorance of any such regulation shall not constitute a defense to a prosecution for the enforcement of a penalty; and, the rules and regulations authorized hereby, after the required publication, shall judicially be known to the courts and shall be considered of a nature like unto that of valid penal ordinances of a city of the State;

(l) ~~[(m)]~~ to adopt, use, and alter a corporate seal;

(m) ~~[(n)]~~ to appoint agents and employees; prescribe their duties and fix their compensation;

(n) ~~[(o)]~~ to make contracts and execute instruments necessary or convenient to the exercise of the powers, rights, privileges, and functions therein conferred;

(o) ~~[(p)]~~ to borrow money for its authorized purposes, to accept grants or loans or allotments from the United States Government or any of its agencies, or others, and in connection with any such grants, loans, or allotments to enter into such agreements as may be required to make them effective, and for the purpose of obtaining funds to issue its negotiable tax bonds and its negotiable revenue bonds in the manner and to the extent hereinafter provided;

(p) ~~[(q)]~~ to operate and maintain with consent of the governing body of any city, town, or political subdivision located in the District any works, plants, or facilities deemed necessary or convenient to the accomplishment of the purposes for which the District is created;

(q) ~~[(r)]~~ to enter into planning agreements with the Texas Water Development Board under Subchapter C, Chapter 16, Water Code, for the purpose of conducting studies necessary to maintain retail water supply services to customers within the boundaries of the District; and

(r) ~~[(s)]~~ to cooperate with and support local fire departments and economic development activities sponsored by local entities within the District that use water and water resources provided, or to be provided, by the District.

SECTION 1.2. Chapter 306, Acts of the 49th Legislature, Regular Session, 1945, is amended by adding Section 27D to read as follows:

Sec. 27D. (a) No later than 120 days after the text of this section becomes effective, the District shall:

(1) produce a report of an assessment of the operations and maintenance condition of the District;

(2) produce a status report of infrastructure improvements under construction;

(3) produce a report addressing the District's provision of water meeting Texas Commission on Environmental Quality (TCEQ) pressure and quality standards;

(4) provide a report on customer service response time;

(5) produce a report certifying any rate structure changes approved by the District and documenting a schedule for future changes to rate structure anticipated by the District; and

(6) deliver these reports to the Utilities and District's section of the TCEQ and the oversight committee.

(b) No later than 180 days after the text of this section becomes effective, the District shall produce an assessment of the District's financial condition and present it to the Utilities and District's section of the TCEQ and the oversight committee.

(c) No later than 240 days after the text of this section becomes effective, the District shall:

(1) produce a report of necessary improvements to the system and a schedule for the implementation of those improvements to ensure all service area improvements are included in the Capital Improvement Plan (CIP) and all service areas have defined Operating and Management (O&M) projects programmed to repair or replace existing aged infrastructure;

(2) produce a report on the sustainability and adequacy of the water resources of the District and a plan for obtaining additional water resources if deficiencies exist; and

(3) deliver these reports to the Utilities and District's section of the TCEQ and the oversight committee.

(d) No later than one year after the text of this section becomes effective, the District shall:

(1) produce a report on service delivery improvements that have been completed and that are in progress;

(2) produce a report identifying all service improvements necessary for the system and a schedule for the completion of those improvements; and

(3) deliver these reports to the Utilities and District's section of the TCEQ and the oversight committee.

(e) No later than eighteen months after the text of this section becomes effective, the District shall adopt a uniform rate structure with rates that are equal to or lower than the rates of other large retail water providers in the region, except that the District may adopt higher rates if necessary to meet debt service obligations or debt coverage requirements.

SECTION 1.3. Chapter 306, Acts of the 49th Legislature, Regular Session, 1945, is amended by adding Section 32 to read as follows:

Sec. 32. (a) The District shall permit a customer to pay a bill at one or more retail locations in the District.

(b) The District may not close a customer service branch that is in operation on June 1, 2007, unless a comparable customer service branch is opened. This subsection expires September 1, 2012.

SECTION 1.4. Chapter 306, Acts of the 49th Legislature, Regular Session, 1945, is amended by adding Section 27A to read as follows:

Sec. 27A. The District shall submit to the oversight committee the following:

(a) a schedule for achieving the objectives set out in Section 27D within six months of the date the text of this Section becomes effective;

(b) evidence that the District has completed its three-year plan of improvements as adopted by the board of directors of the District prior to the effective date of this Act within one and one half years from the date the text of this Section becomes effective;

(c) current year audited annual financial statements indicating the financial condition of the district within thirty (30) days of completion;

(d) a written projection of all rate and fee increases for three years following the effective date of this Act within six months of the date the text of this Section becomes effective;

(e) a report summarizing the District's efforts to facilitate transition of service areas outside of Bexar and Atascosa Counties to other qualified local water utility service providers;

(f) any documentation or materials used in conducting a standard managerial and financial audit; and

(g) any other information the oversight committee requests.

SECTION 1.5. Chapter 306, Acts of the 49th Legislature, Regular Session, 1945, is amended by adding Section 27B to read as follows:

Sec. 27B. (a) The District shall maintain a file on each complaint received by the District that relates to retail water service provided by the District. The file must include:

(1) the name of the person who filed the complaint, unless the person requests anonymity;

(2) the date the District receives the complaint;

(3) the subject matter of the complaint;

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

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

(6) an explanation of the reason the file was closed, if the District closed the file without taking action other than investigating the complaint.

(b) The District shall establish and implement procedures for receiving complaints submitted through the Internet and orally.

SECTION 1.6. Chapter 306, Acts of the 49th Legislature, Regular Session, 1945, is amended by adding Section 27C to read as follows:

Sec. 27C. The District shall maintain a rate structure that promotes and encourages conservation of water and provides for lower rates for customers using lower quantities of water.

SECTION 1.7. Chapter 306, Acts of the 49th Legislature, Regular Session, 1945, is amended by adding Section 27E to read as follows:

Sec. 27E. The District shall implement an appeal and grievance process for employees of the District.

SECTION 1.8. Chapter 306, Acts of the 49th Legislature, Regular Session, 1945, is amended by adding Section 27F to read as follows:

Sec. 27F. The legislature finds that:

(1) the Texas Commission on Environmental Quality has continuing jurisdiction over districts created under Section 52(b), Article III, and Section 59, Article XVI, Texas Constitution;

(2) the management and operation of the District demonstrate the need for an evaluation of the District by an independent third party such as the commission; and

(3) the commission has the expertise and authority necessary to conduct a thorough evaluation of the District and initiate actions to improve the management and operations of the District.

SECTION 1.9. Chapter 306, Acts of the 49th Legislature, Regular Session, 1945, is amended by adding Section 27G to read as follows:

Sec. 27G. (a) Not later than the 30th day after the effective date of the Act enacting this section, the Texas Commission on Environmental Quality shall begin an on-site evaluation of the District. The evaluation must include:

(1) a description and analysis of the District's management structure, policies, practices and procedures, and recommendations for improving them;

(2) a description and analysis of the decision-making policies and procedures of the board of directors of the District, and recommendations for improving the policies and procedures;

(3) a narrative summary of the District's record of compliance with applicable state laws and commission rules, and recommendations for improving the District's record of compliance;

(4) a narrative summary and analysis of the financial policies and practices of the District, including the District's bonded indebtedness and other forms of debt, and a comparison of the District's debt to other water purveyors in the area;

(5) a description and analysis of the water rate-setting policies and practices of the District, and recommendations for improving the policies and practices;

(6) a narrative summary of the District's infrastructure capital improvements budget and a comparison of the budget with the capital improvements budgets of other major water purveyors in the area, and recommendations for improving the District's long-range budget;

(7) a compilation and analysis of customer water service interruptions during the preceding three years that resulted from inadequate infrastructure or other causes, and recommendations for preventing future service interruptions;

(8) a compilation and analysis of incidents in which contaminated water was supplied to customers of the District during the preceding three years, a description of measures taken by the District to prevent contamination, and recommendations for preventing future contamination; and

(9) a calculation of the annual volume of the District's unaccounted-for water, and recommendations for preventing future system leaks and related problems.

(b) On commencement of the evaluation, the commission shall specify a time period for completion of the evaluation.

(c) The commission may contract with utility management consultants, accountants, and other persons as necessary to conduct the evaluation.

(d) The commission may require the District to reimburse the commission for the reasonable cost of conducting the evaluation.

(e) The commission shall file copies of the completed evaluation with the oversight committee.

(f) On completion of the evaluation, the commission may issue orders compelling any appropriate and necessary actions by the District under Chapter 49, Water Code, and the commission's rules regulating retail public utilities. If the commission finds that the District is incapable of operating the utility in a manner that provides adequate water service to current and future customers, the commission may include, in the final evaluation, a recommendation that the oversight committee consider the option of initiating the process of receivership appointment to operate the utility under Section 13.142, Water Code.

ARTICLE 2

SECTION 2.1. Chapter 306, Acts of the 49th Legislature, Regular Session, 1945, is amended by adding Section 33A to read as follows:

Sec. 33A. OVERSIGHT COMMITTEE. (a) In recognition of the important goal of the state in providing safe and efficient water supply services to the customers of the District and the necessity for state oversight and regulation of the District to ensure the achievement of this goal there is created the Bexar Metropolitan Water District Oversight Committee.

(b) The oversight committee shall monitor the progress of the district in maintaining a rate structure that conserves water, provides adequate service to low-income customers, and assists in creating uniform rates among water utility providers in the region; the oversight committee also shall monitor the quality of service provided by the district; monitor the plans by the district to provide for sustainability of water resources and plan for infrastructure needs; identify regulatory and statutory barriers to achievement of the district's goals, and make recommendations to the Legislature, if necessary; and perform any other oversight function deemed appropriate by the oversight committee.

(c) The oversight committee is comprised of 5 members appointed to represent the following members:

(1) the Senator sponsor of this Act, or, in the event this Senator cannot serve, a Senator appointed by the Lieutenant Governor;

(2) the House author of this Act, or, in the event this Representative cannot serve, a Representative appointed by the Speaker of the Texas House of Representatives;

(3) one member with special expertise in the operation of public water utilities appointed by the Governor;

(4) one member appointed by the Governor to represent the public; and

(5) a member of the Bexar County Commissioners Court who represents a precinct in which customers of the District reside.

(d) A member of the oversight committee is not entitled to receive compensation for service on the oversight committee but is entitled to reimbursement of the travel expenses incurred by the member while conducting the business of the oversight committee, as provided by the General Appropriations Act.

(e) The oversight committee shall prepare a comprehensive report to the House and Senate Natural Resources Committee on its findings and recommendations concerning the District's ability to meet service and financial standards and any legislative changes needed in the District's authority or governance.

(f) The District shall provide staff support for the oversight committee.

SECTION 2.2. Subject to approval by the Legislative Audit Committee for inclusion in the annual audit plan, the state auditor shall conduct a financial audit of the District upon passage of this Act and submit the findings from the audit in a written report to the members of the oversight committee, the board of directors of the District, and the Texas Legislature. The District shall cooperate and provide assistance and access to all necessary records, confidential or unconfidential, to the state auditor in conducting the audit pursuant to this Section. The District shall reimburse the state auditor for the cost of performing the audit.

SECTION 2.3. (a) The legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

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

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

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

SECTION 2.4. Notwithstanding any other provision of this Act, nothing herein shall impair any Canyon Regional Water Authority project contract, project financing obligation issued or to be issued wherein the Bexar Metropolitan Water District is a CRWA member entity project participant.

SECTION 2.5. Notwithstanding any other Act enacted during the 80th Texas Legislature and notwithstanding Sections 311.025 and 312.014, Government Code, this Act prevails over any other Act relating to or amending Chapter 306, Acts of the 49th Legislature, Regular Session, 1945.

SECTION 2.6. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

Representative Puente moved to adopt the conference committee report on **HB 1565**.

(Oliveira now present)

A record vote was requested.

The motion to adopt the conference committee report on **HB 1565** prevailed by (Record 2000): 141 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno; Morrison; Mowery; Murphy; Naishtat; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent — Branch; Chavez; Davis, Y.; Hamilton; Miles; Noriega; Riddle; Thompson.

STATEMENTS OF VOTE

When Record No. 2000 was taken, I was in the house but away from my desk. I would have voted yes.

Branch

When Record No. 2000 was taken, I was in the house but away from my desk. I would have voted yes.

Miles

(Noriega now present)

(Speaker pro tempore in the chair)

SB 758 - RULES SUSPENDED

Representative Rose moved to suspend all necessary rules to consider the conference committee report on **SB 758**.

The motion prevailed.

SB 758 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Rose submitted the conference committee report on **SB 758**.

Representative Rose moved to adopt the conference committee report on **SB 758**.

A record vote was requested.

The motion to adopt the conference committee report on **SB 758** prevailed by (Record 2001): 142 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Truitt; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker; Turner(C).

Absent — Chavez; Davis, Y.; Hamilton; Miles; Pierson; Thompson.

STATEMENT OF VOTE

When Record No. 2001 was taken, I was in the house but away from my desk. I would have voted yes.

Miles

HB 2072 - RULES SUSPENDED

Representative Guillen moved to suspend all necessary rules to consider the conference committee report on **HB 2072**.

The motion prevailed.

HB 2072 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Guillen submitted the following conference committee report on **HB 2072**:

Austin, Texas, May 26, 2007

The Honorable David Dewhurst
President of the Senate

The Honorable Tom Craddick
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 2072** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Zaffirini

Averitt

Brimer

Hinojosa

Eltife

On the part of the senate

Guillen

Creighton

Escobar

Hancock

Peña

On the part of the house

HB 2072, A bill to be entitled An Act relating to the appointment of temporary directors and the confirmation election of the Starr County Groundwater Conservation District.

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

SECTION 1. Subchapter A, Chapter 8803, Special District Local Laws Code, is amended by adding Section 8803.004 to read as follows:

Sec. 8803.004. CONFIRMATION ELECTION REQUIRED. If the creation of the district is not confirmed at a confirmation election held before September 1, 2009:

(1) the district is dissolved on September 1, 2009, except that:

(A) any debts incurred shall be paid;

(B) any assets that remain after the payment of debts shall be transferred to Starr County; and

(C) the organization of the district shall be maintained until all debts are paid and remaining assets are transferred; and

(2) this chapter expires September 1, 2012.

SECTION 2. Chapter 8803, Special District Local Laws Code, is amended by adding Subchapter A-1 to read as follows:

SUBCHAPTER A-1. TEMPORARY PROVISIONS

Sec. 8803.021. APPOINTMENT OF TEMPORARY DIRECTORS. (a) Not later than the 45th day after the effective date of this subchapter, five temporary directors shall be appointed as follows:

(1) the Starr County Commissioners Court shall appoint four temporary directors, with one of the temporary directors appointed from each of the four commissioners precincts in the county to represent the precinct in which the temporary director resides; and

(2) the county judge of Starr County shall appoint one temporary director who resides in the district to represent the district at large.

(b) If there is a vacancy on the temporary board of directors of the district, the remaining temporary directors shall appoint a person to fill the vacancy in a manner that meets the representational requirements of this section.

(c) Temporary directors serve until the earlier of:

(1) the time the temporary directors become initial directors as provided by Section 8803.024; or

(2) the date this chapter expires under Section 8803.004.

Sec. 8803.022. ORGANIZATIONAL MEETING OF TEMPORARY DIRECTORS. As soon as practicable after all the temporary directors have qualified under Section 36.055, Water Code, a majority of the temporary directors shall convene the organizational meeting of the district at a location within the district agreeable to a majority of the directors. If an agreement on location cannot be reached, the organizational meeting shall be at the Starr County Courthouse.

Sec. 8803.023. CONFIRMATION ELECTION. (a) The temporary directors shall hold an election to confirm the creation of the district.

(b) Section 41.001(a), Election Code, does not apply to a confirmation election held as provided by this section.

(c) Except as provided by this section, a confirmation election must be conducted as provided by Sections 36.017(b)-(i), Water Code, and the Election Code. The provision of Section 36.017(d), Water Code, relating to the election of permanent directors does not apply to a confirmation election under this section.

(d) Starr County may pay for any portion of the costs incident to the district's confirmation election.

Sec. 8803.024. INITIAL DIRECTORS. (a) If creation of the district is confirmed at an election held under Section 8803.023, the temporary directors of the district become the initial directors of the district and serve on the board of directors until permanent directors are elected under Section 8803.025.

(b) The initial directors for county precincts 2 and 3 serve a term expiring June 1 following the first regularly scheduled election of directors under Section 8803.025, and the initial directors for county precincts 1 and 4 serve a term expiring June 1 following the second regularly scheduled election of directors. The at-large director shall serve a term expiring June 1 following the second regularly scheduled election of directors.

Sec. 8803.025. INITIAL ELECTION OF PERMANENT DIRECTORS. On the uniform election date prescribed by Section 41.001, Election Code, in May of the first even-numbered year after the year in which the district is authorized to be created at a confirmation election, an election shall be held in the district for the election of two directors to replace the initial directors who, under Section 8803.024(b), serve a term expiring June 1 following that election.

Sec. 8803.026. EXPIRATION OF SUBCHAPTER. This subchapter expires September 1, 2012.

SECTION 3. Sections 5, 6, 7, 8, 9, and 11, Chapter 451, Acts of the 79th Legislature, Regular Session, 2005, are repealed.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

Representative Guillen moved to adopt the conference committee report on **HB 2072**.

A record vote was requested.

The motion to adopt the conference committee report on **HB 2072** prevailed by (Record 2002): 144 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Truitt; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker; Turner(C).

Absent — Davis, Y.; Miles; Parker; Thompson.

STATEMENT OF VOTE

When Record No. 2002 was taken, I was in the house but away from my desk. I would have voted yes.

Miles

SB 8 - RULES SUSPENDED

Representative Flynn moved to suspend all necessary rules to consider the conference committee report on **SB 8**.

The motion prevailed.

SB 8 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Flynn submitted the conference committee report on **SB 8**.

Representative Flynn moved to adopt the conference committee report on **SB 8**.

A record vote was requested.

The motion to adopt the conference committee report on **SB 8** prevailed by (Record 2003): 140 Yeas, 4 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Delisi; Deshotel; Driver; Dukes;

Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberger; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Truitt; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Nays — Aycock; Harper-Brown; Phillips; Riddle.

Present, not voting — Mr. Speaker; Turner(C).

Absent — Davis, Y.; Garcia; Miles; Thompson.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 2003. I intended to vote no.

Christian

When Record No. 2003 was taken, I was in the house but away from my desk. I would have voted yes.

Miles

HR 2805 - ADOPTED

(by Chavez, Haggerty, Moreno, Pickett, and Quintanilla)

Representative Chavez moved to suspend all necessary rules to take up and consider at this time **HR 2805**.

The motion prevailed.

The following resolution was laid before the house:

HR 2805, In memory of the Honorable Nancy Hanks McDonald of Austin.

HR 2805 was read and was unanimously adopted by a rising vote.

On motion of Representative Pickett, the names of all the members of the house were added to **HR 2805** as signers thereof.

INTRODUCTION OF GUESTS

The chair recognized Representatives Moreno, Chavez, and Haggerty who introduced family members of the Honorable Nancy Hanks McDonald.

HR 2948 - ADOPTED

(by Hughes, Rose, Rodriguez, Parker, and Turner)

Representative Hughes moved to suspend all necessary rules to take up and consider at this time **HR 2948**.

The motion prevailed.

The following resolution was laid before the house:

HR 2948, In memory of Emilio Gonzales of Lockhart.

HR 2948 was read and was unanimously adopted by a rising vote.

On motion of Representative Parker, the names of all the members of the house were added to **HR 2948** as signers thereof.

HCR 253 - MOTION TO ADD NAMES

On motion of Representative Kuempel, the names of all the members of the house were added to **HCR 253** as signers thereof.

HR 2889 - ADOPTED

(by T. King)

Representative T. King moved to suspend all necessary rules to take up and consider at this time **HR 2889**.

The motion prevailed.

The following resolution was laid before the house:

HR 2889, Congratulating the Medina Valley High School boys' golf team on winning the 2007 UIL Class 3A State Golf Championship.

HR 2889 was adopted.

(Y. Davis now present)

HR 2904 - ADOPTED

(by Swinford)

Representative Swinford moved to suspend all necessary rules to take up and consider at this time **HR 2904**.

The motion prevailed.

The following resolution was laid before the house:

HR 2904, Honoring Seiji Yamaguchi of Nippon Meat Packers for his role in establishing Texas Farm as a leading business in Perryton.

HR 2904 was adopted.

SB 530 - RULES SUSPENDED

Representative Eissler moved to suspend all necessary rules to consider the conference committee report on **SB 530**.

The motion prevailed.

SB 530 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Eissler submitted the conference committee report on **SB 530**.

Representative Eissler moved to adopt the conference committee report on **SB 530**.

A record vote was requested.

The motion to adopt the conference committee report on **SB 530** prevailed by (Record 2004): 139 Yeas, 4 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenber; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Miller; Moreno; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Truitt; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Nays — Aycock; Christian; Harper-Brown; Phillips.

Present, not voting — Mr. Speaker; Turner(C).

Absent — Davis, Y.; Garcia; Merritt; Miles; Thompson.

STATEMENT OF VOTE

When Record No. 2004 was taken, I was in the house but away from my desk. I would have voted yes.

Miles

SB 718 - RULES SUSPENDED

Representative Gattis moved to suspend all necessary rules to consider the conference committee report on **SB 718**.

The motion prevailed.

SB 718 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Gattis submitted the conference committee report on **SB 718**.

Representative Gattis moved to adopt the conference committee report on **SB 718**.

A record vote was requested.

The motion to adopt the conference committee report on **SB 718** prevailed by (Record 2005): 144 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Truitt; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker; Turner(C).

Absent — Garcia; King, T.; Miles; Thompson.

STATEMENT OF VOTE

When Record No. 2005 was taken, I was in the house but away from my desk. I would have voted yes.

Miles

HB 1386 - RULES SUSPENDED

Representative P. King moved to suspend all necessary rules to consider the conference committee report on **HB 1386**.

The motion prevailed.

HB 1386 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative P. King submitted the following conference committee report on **HB 1386**:

Austin, Texas, May 26, 2007

The Honorable David Dewhurst
President of the Senate

The Honorable Tom Craddick
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 1386** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Fraser
Carona
Eltime

P. King
Christian
Garcia

Watson
West
On the part of the senate

B. Brown
O'Day
On the part of the house

HB 1386, A bill to be entitled An Act relating to regulation of the decommissioning costs of certain nuclear-powered commercial electric generating units.

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

SECTION 1. Subchapter E, Chapter 39, Utilities Code, is amended by adding Section 39.206 to read as follows:

Sec. 39.206. NUCLEAR GENERATING UNIT DECOMMISSIONING COST PLAN. (a) For purposes of this section:

(1) "Decommissioning" includes decommissioning and decontamination of a nuclear generating unit consistent with federal Nuclear Regulatory Commission requirements.

(2) "Nuclear decommissioning trust" means an external and irrevocable trust created for the purpose of funding decommissioning obligations for a nuclear generating unit, consistent with federal Nuclear Regulatory Commission requirements.

(3) "Nuclear generating unit" means an electric generating facility that uses nuclear energy to generate electricity for sale and is licensed by the Nuclear Regulatory Commission and was under construction in this state after January 1, 2007, but before January 1, 2015.

(4) "Power generation company" has the meaning assigned by Section 31.002.

(5) "Retail electric customer" means a retail electric customer:

(A) in a geographic area of this state in which retail customer choice has been implemented; or

(B) of a municipally owned utility or electric cooperative that has an agreement to purchase power from a nuclear generating unit.

(b) This section applies only to the first six nuclear generation units under construction by January 1, 2015, owned in whole or in part by a power generation company that elects to utilize the decommissioning mechanism set forth in this section.

(c) Nothing in this section shall be construed to require a power generation company to use a commission approved method to provide funds for decommissioning, if the power generation company can otherwise satisfy the decommissioning financial assurance requirements of the federal Nuclear Regulatory Commission.

(d) A power generation company that owns a nuclear generating unit shall fund out of operating revenues on an annual basis:

(1) the costs associated with funding the decommissioning obligations for the nuclear generating unit; or

(2) the power generation company's portion of the decommissioning costs for the nuclear generating unit in proportion to the company's ownership interest in the nuclear generating unit if the unit is owned by more than one person.

(e) The obligation to fund a nuclear decommissioning trust fund is not dischargeable in bankruptcy.

(f) A power generation company shall establish a nuclear decommissioning trust for a nuclear generating unit it owns or for the proportionate share of a nuclear generating unit of which it owns a part. The funding obligations for the trust must begin before the nuclear generating unit commences its initial fuel load and begins commercial operation to generate power for sale. The terms of the trust must be consistent with trust terms and conditions the federal Nuclear Regulatory Commission requires for providing financial assurance for decommissioning.

(g) The commission by order shall establish for a nuclear generating unit the amount of annual decommissioning funding necessary to meet the decommissioning obligations for the nuclear generating unit over the unit's operating license period as established by the federal Nuclear Regulatory Commission or over a shorter period of time at the election of the power generation company. The power generation company shall perform a study on the cost of decommissioning to establish the decommissioning obligations before the nuclear generating unit begins commercial operation to generate power for sale. The study shall be performed by the power generation company at least once in each three-year period during the unit's operating license period using the most current reasonably available information on the cost of decommissioning. The commission shall conduct a proceeding at least once in each three-year period to review the study and other current reasonably available information on the cost of decommissioning and determine the reasonableness of the study.

(h) A power generation company shall file an annual report to provide the status of the decommissioning trust fund and to update the commission as to its ability to fund the decommissioning trust fund. In determining the amount of the annual decommissioning funding under this subsection, at least once in each three-year period, the commission shall conduct a proceeding to review the balance of each nuclear decommissioning trust and the projected amount of annual decommissioning funding for the associated nuclear generating unit. On the conclusion of the review proceeding, the commission by order shall revise the amount of annual funding for the nuclear generating unit in order to ensure that the nuclear decommissioning trust fund is adequately funded.

(i) A power generation company shall remit the appropriate amount of annual decommissioning funding to the nuclear decommissioning trust created for its proportionate ownership position in a nuclear generating unit in accordance with the commission's funding order issued under Subsection (g) or (h). The commission shall take appropriate actions to ensure proper funding of the nuclear decommissioning trust, including possibly terminating the power generation company's registration to operate, if the company violates this subsection.

(j) A power generation company that owns a nuclear generating unit is the funds administrator of the nuclear decommissioning trust for the associated nuclear generating unit. The company, as funds administrator, shall invest the trust funds in accordance with guidelines established by commission rule and

consistent with the federal Nuclear Regulatory Commission guidelines so that the decommissioning funds, plus the amounts earned from investment of the funds, will be available at the time of decommissioning. The commission shall adopt rules to define the company's specific duties as funds administrator and requirements regarding prudent management and investment of nuclear decommissioning trust funds.

(k) The commission shall adopt rules necessary to ensure that:

(1) a power generation company remits sufficient funds to a nuclear decommissioning trust on an annual basis, including projected earnings to approximate the amount remaining to be accumulated to cover the cost of decommissioning a nuclear generating unit at the end of its operating license period divided by the remaining years of the license and in accordance with applicable state and federal laws and regulations or over a shorter period of time at the election of the power generation company;

(2) the periodic cost studies and reviews described in Subsections (g) and (h) include all current reasonably available information as determined necessary and appropriate by the commission;

(3) all funds remitted to a nuclear decommissioning trust are prudently managed and spent for their intended purpose;

(4) the funds remitted to a nuclear decommissioning trust and the amounts earned from investing the funds, will be available for, and restricted to the purpose of decommissioning of the associated nuclear generating unit, including if the trust or nuclear generating unit is transferred to another person; and

(5) before a power generation company is allowed to take advantage of the mechanisms in this section, the company meets creditworthiness standards established by the commission to minimize the risk that retail electric customers will be responsible for funding any shortfall in the cost of decommissioning a nuclear generating unit.

(l) In addition to the nuclear decommissioning trust required by Subsection (f), for purposes of Subsection (k), the power generation company and its parent and affiliates shall provide financial assurances that funds will be available to satisfy up to 16 years of annual decommissioning funding in the event the power generation company defaults on its obligation to make annual funding to the decommissioning trust. Within 180 days after the effective date of this section, the commission by rule shall establish the acceptable forms of financial assurance, which shall include, but not be limited to, parent guarantees and support agreements, letters of credit, surety or insurance, and such other requirements necessary to ensure compliance with this section. In establishing the acceptable forms of assurance, and the eligibility requirements for each form of assurance, the commission shall consider the relative risk factors and creditworthiness attributes of potential applicant financial characteristics in order to minimize exposure of retail electric customers to default by power generation companies under this section. The power generation company may choose the manner of financial assurance for which it is eligible under the commission's rules.

(m) In the event the financial assurances provided by Subsection (k) are insufficient to meet the annual funding requirements of the decommissioning trust, the retail electric customers shall be responsible for funding any shortfall in the cost of decommissioning the nuclear generating unit.

(n) The commission shall determine the manner in which any shortfall in the cost of decommissioning a nuclear generating unit shall be recovered from retail electric customers in the state, consistent with law.

(o) For retail electric customers of a municipally owned utility or an electric cooperative that has an agreement to purchase power from a nuclear generating unit, the amount of the shortfall in the cost of decommissioning the nuclear generating unit that the customers are responsible for is limited to a portion of that shortfall that bears the same proportion to the total shortfall as the amount of electric power generated by the nuclear generating unit and purchased by the municipally owned utility or electric cooperative bears to the total amount of power the nuclear generating unit generated.

(p) If retail electric customers in this state become responsible for the costs of decommissioning a nuclear generating unit and incur costs under this section and the nuclear generating unit is operational, as a condition of operating the generating unit, the power generation company or any new owner shall repay the costs the electric customers incurred in the manner determined by the commission. The commission may authorize the repayment to occur over a period established by the commission.

(q) The commission shall, in conjunction with the Nuclear Regulatory Commission, investigate the development of a mechanism whereby the State of Texas could ensure that funds for decommissioning will be obtained when necessary in the same manner as if the State of Texas were the licensee under federal law. The commission shall file legislative recommendations regarding any changes in law that may be necessary to carry out the purposes of this subsection prior to January 15, 2009, which may be combined with the report required by Section 31.003.

(r) The commission by rule shall ensure that:

(1) money for decommissioning a nuclear generating unit is prudently collected, managed, and spent for its intended purposes; and

(2) decommissioning money that remains unspent after decommissioning of the nuclear generating unit is complete is returned to the power generation company and the retail electric customers based on the proportionate amount of money the power generation company and retail electric customers paid into the fund.

SECTION 2. This Act takes effect September 1, 2007.

Representative P. King moved to adopt the conference committee report on **HB 1386**.

A record vote was requested.

The motion to adopt the conference committee report on **HB 1386** prevailed by (Record 2006): 134 Yeas, 8 Nays, 4 Present, not voting.

Yeas — Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Hilderbran; Hill; Hodge; Homer; Hopson; Howard, C.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenber; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Morrison; Mowery; Murphy; Naishtat; O'Day; Oliveira; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smithee; Solomons; Strama; Straus; Swinford; Taylor; Truitt; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Nays — Allen; Escobar; Herrero; Hochberg; Howard, D.; Leibowitz; Moreno; Olivo.

Present, not voting — Mr. Speaker; Corte; Noriega; Turner(C).

Absent — Miles; Smith, W.; Talton; Thompson.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 2006. I intended to vote no.

Castro

When Record No. 2006 was taken, I was in the house but away from my desk. I would have voted yes.

Miles

HB 3 - RULES SUSPENDED

Representative Puente moved to suspend all necessary rules to consider the conference committee report on **HB 3**.

The motion prevailed.

HB 3 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Puente submitted the following conference committee report on **HB 3**:

Austin, Texas, May 26, 2007

The Honorable David Dewhurst
President of the Senate

The Honorable Tom Craddick
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 3** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Averitt
Eltife
Shapiro
Hegar

On the part of the senate

Puente
Guillen
Morrison
Straus

On the part of the house

HB 3, A bill to be entitled An Act relating to the management of the water resources of the state, including the protection of instream flows and freshwater inflows, and to the management of groundwater in the area regulated by the Edwards Aquifer Authority and to the operations and oversight of the authority.

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

ARTICLE 1. MANAGEMENT OF STATE WATER

SECTION 1.01. The heading to Section 5.506, Water Code, is amended to read as follows:

Sec. 5.506. EMERGENCY SUSPENSION OF PERMIT CONDITION RELATING TO, AND EMERGENCY AUTHORITY TO MAKE AVAILABLE WATER SET ASIDE FOR, BENEFICIAL INFLOWS TO AFFECTED BAYS AND ESTUARIES AND INSTREAM USES.

SECTION 1.02. Section 5.506, Water Code, is amended by adding Subsection (a-1) and amending Subsections (b) and (c) to read as follows:

(a-1) State water that is set aside by the commission to meet the needs for freshwater inflows to affected bays and estuaries and instream uses under Section 11.1471(a)(2) may be made available temporarily for other essential beneficial uses if the commission finds that an emergency exists that cannot practically be resolved in another way.

(b) The commission must give written notice of the proposed action [suspension] to the Parks and Wildlife Department before the commission suspends a permit condition under Subsection (a) or makes water available temporarily under Subsection (a-1) [this section]. The commission shall give the Parks and Wildlife Department an opportunity to submit comments on the proposed action [suspension] for a period of 72 hours from receipt of the notice and must consider those comments before issuing an order implementing the proposed action [imposing the suspension].

(c) The commission may suspend a permit condition under Subsection (a) or make water available temporarily under Subsection (a-1) [this section] without notice except as required by Subsection (b).

SECTION 1.03. Section 5.701(j), Water Code, is amended to read as follows:

(j) The fee for other uses of water not specifically named in this section is \$1 per acre-foot, except that no political subdivision may be required to pay fees to use water for recharge of underground freshwater-bearing sands and aquifers

or for abatement of natural pollution. A fee is not required for a water right that is ~~[This fee is waived for applications for instream use water rights]~~ deposited into the Texas Water Trust.

SECTION 1.04. Section 11.002, Water Code, is amended by adding Subdivisions (15), (16), (17), (18), and (19) to read as follows:

(15) "Environmental flow analysis" means the application of a scientifically derived process for predicting the response of an ecosystem to changes in instream flows or freshwater inflows.

(16) "Environmental flow regime" means a schedule of flow quantities that reflects seasonal and yearly fluctuations that typically would vary geographically, by specific location in a watershed, and that are shown to be adequate to support a sound ecological environment and to maintain the productivity, extent, and persistence of key aquatic habitats in and along the affected water bodies.

(17) "Environmental flow standards" means those requirements adopted by the commission under Section 11.1471.

(18) "Advisory group" means the environmental flows advisory group.

(19) "Science advisory committee" means the Texas environmental flows science advisory committee.

SECTION 1.05. Section 11.023(a), Water Code, is amended to read as follows:

(a) To the extent that state water has not been set aside by the commission under Section 11.1471(a)(2) to meet downstream instream flow needs or freshwater inflow needs, state ~~[State]~~ water may be appropriated, stored, or diverted for:

(1) domestic and municipal uses, including water for sustaining human life and the life of domestic animals;

(2) agricultural uses and industrial uses, meaning processes designed to convert materials of a lower order of value into forms having greater usability and commercial value, including the development of power by means other than hydroelectric;

(3) mining and recovery of minerals;

(4) hydroelectric power;

(5) navigation;

(6) recreation and pleasure;

(7) public parks; and

(8) game preserves.

SECTION 1.06. Section 11.0235, Water Code, is amended by amending Subsections (c) and (e) and adding Subsections (d-1) through (d-6) and (f) to read as follows:

(c) The legislature has expressly required the commission while balancing all other public interests to consider and, to the extent practicable, provide for the freshwater inflows and instream flows necessary to maintain the viability of the state's streams, rivers, and bay and estuary systems in the commission's regular granting of permits for the use of state waters. As an essential part of the state's environmental flows policy, all permit conditions relating to freshwater inflows to

affected bays and estuaries and instream flow needs must be subject to temporary suspension if necessary for water to be applied to essential beneficial uses during emergencies.

(d-1) The legislature has determined that existing water rights that are converted to water rights for environmental purposes should be enforced in a manner consistent with the enforcement of water rights for other purposes as provided by the laws of this state governing the appropriation of state water.

(d-2) The legislature finds that to provide certainty in water management and development and to provide adequate protection of the state's streams, rivers, and bays and estuaries, the state must have a process with specific timelines for prompt action to address environmental flow issues in the state's major basin and bay systems, especially those systems in which unappropriated water is still available.

(d-3) The legislature finds that:

(1) in those basins in which water is available for appropriation, the commission should establish an environmental set-aside below which water should not be available for appropriation; and

(2) in those basins in which the unappropriated water that will be set aside for instream flow and freshwater inflow protection is not sufficient to fully satisfy the environmental flow standards established by the commission, a variety of market approaches, both public and private, for filling the gap must be explored and pursued.

(d-4) The legislature finds that while the state has pioneered tools to address freshwater inflow needs for bays and estuaries, there are limitations to those tools in light of both scientific and public policy evolution. To fully address bay and estuary environmental flow issues, the foundation of work accomplished by the state should be improved. While the state's instream flow studies program appears to encompass a comprehensive and scientific approach for establishing a process to assess instream flow needs for rivers and streams across the state, more extensive review and examination of the details of the program, which may not be fully developed until the program is under way, are needed to ensure an effective tool for evaluating riverine environmental flow conditions.

(d-5) The legislature finds that the management of water to meet instream flow and freshwater inflow needs should be evaluated on a regular basis and adapted to reflect both improvements in science related to environmental flows and future changes in projected human needs for water. In addition, the development of management strategies for addressing environmental flow needs should be an ongoing, adaptive process that considers and addresses local issues.

(d-6) The legislature finds that recommendations for state action to protect instream flows and freshwater inflows should be developed through a consensus-based, regional approach involving balanced representation of stakeholders and that such a process should be encouraged throughout the state.

(e) The fact that greater pressures and demands are being placed on the water resources of the state makes it of paramount importance to ensure ~~reexamine the process for ensuring~~ that these important priorities are effectively addressed by detailing how environmental flow standards are to be developed

using the environmental studies that have been and are to be performed by the state and others and specifying in clear delegations of authority how those environmental flow standards will be integrated into the regional water planning and water permitting process [to the commission].

(f) The legislature recognizes that effective implementation of the approach provided by this chapter for protecting instream flows and freshwater inflows will require more effective water rights administration and enforcement systems than are currently available in most areas of the state.

SECTION 1.07. Subchapter B, Chapter 11, Water Code, is amended by adding Sections 11.0236, 11.02361, 11.02362, and 11.0237 to read as follows:

Sec. 11.0236. ENVIRONMENTAL FLOWS ADVISORY GROUP. (a) In recognition of the importance that the ecological soundness of our riverine, bay, and estuary systems and riparian lands has on the economy, health, and well-being of the state there is created the environmental flows advisory group.

(b) The advisory group is composed of nine members as follows:

(1) three members appointed by the governor;

(2) three members of the senate appointed by the lieutenant governor;

and

(3) three members of the house of representatives appointed by the speaker of the house of representatives.

(c) Of the members appointed under Subsection (b)(1):

(1) one member must be a member of the commission;

(2) one member must be a member of the board; and

(3) one member must be a member of the Parks and Wildlife

Commission.

(d) Each member of the advisory group serves at the will of the person who appointed the member.

(e) The appointed senator with the most seniority and the appointed house member with the most seniority serve together as co-presiding officers of the advisory group.

(f) A member of the advisory group is not entitled to receive compensation for service on the advisory group but is entitled to reimbursement of the travel expenses incurred by the member while conducting the business of the advisory group, as provided by the General Appropriations Act.

(g) The advisory group may accept gifts and grants from any source to be used to carry out a function of the advisory group.

(h) The commission shall provide staff support for the advisory group.

(i) The advisory group shall conduct public hearings and study public policy implications for balancing the demands on the water resources of the state resulting from a growing population with the requirements of the riverine, bay, and estuary systems including granting permits for instream flows dedicated to environmental needs or bay and estuary inflows, use of the Texas Water Trust, and any other issues that the advisory group determines have importance and relevance to the protection of environmental flows. In evaluating the options for providing adequate environmental flows, the advisory group shall take notice of the strong public policy imperative that exists in this state recognizing that

environmental flows are important to the biological health of our public and private lands, streams and rivers, and bay and estuary systems and are high priorities in the water management process. The advisory group shall specifically address:

(1) ways that the ecological soundness of those systems will be ensured in the water rights administration and enforcement and water allocation processes; and

(2) appropriate methods to encourage persons voluntarily to convert reasonable amounts of existing water rights to use for environmental flow protection temporarily or permanently.

(j) The advisory group may adopt rules, procedures, and policies as needed to administer this section, to implement its responsibilities, and to exercise its authority under Sections 11.02361 and 11.02362.

(k) Chapter 2110, Government Code, does not apply to the size, composition, or duration of the advisory group.

(l) Not later than December 1, 2008, and every two years thereafter, the advisory group shall issue and promptly deliver to the governor, lieutenant governor, and speaker of the house of representatives copies of a report summarizing:

(1) any hearings conducted by the advisory group;

(2) any studies conducted by the advisory group;

(3) any legislation proposed by the advisory group;

(4) progress made in implementing Sections 11.02361 and 11.02362;

and

(5) any other findings and recommendations of the advisory group.

(m) The advisory group is abolished on the date that the commission has adopted environmental flow standards under Section 11.1471 for all of the river basin and bay systems in this state.

Sec. 11.02361. TEXAS ENVIRONMENTAL FLOWS SCIENCE ADVISORY COMMITTEE. (a) The Texas environmental flows science advisory committee consists of at least five but not more than nine members appointed by the advisory group.

(b) The advisory group shall appoint to the science advisory committee persons who will provide an objective perspective and diverse technical expertise, including expertise in hydrology, hydraulics, water resources, aquatic and terrestrial biology, geomorphology, geology, water quality, computer modeling, and other technical areas pertinent to the evaluation of environmental flows.

(c) Members of the science advisory committee serve five-year terms expiring March 1. A vacancy on the science advisory committee is filled by appointment by the co-presiding officers of the advisory group for the unexpired term.

(d) Chapter 2110, Government Code, does not apply to the size, composition, or duration of the science advisory committee.

(e) The science advisory committee shall:

(1) serve as an objective scientific body to advise and make recommendations to the advisory group on issues relating to the science of environmental flow protection; and

(2) develop recommendations to help provide overall direction, coordination, and consistency relating to:

(A) environmental flow methodologies for bay and estuary studies and instream flow studies;

(B) environmental flow programs at the commission, the Parks and Wildlife Department, and the board; and

(C) the work of the basin and bay expert science teams described in Section 11.02362.

(f) To assist the advisory group to assess the extent to which the recommendations of the science advisory committee are considered and implemented, the commission, the Parks and Wildlife Department, and the board shall provide written reports to the advisory group, at intervals determined by the advisory group, that describe:

(1) the actions taken by each agency in response to each recommendation; and

(2) for each recommendation not implemented, the reason it was not implemented.

(g) The science advisory committee is abolished on the date the advisory group is abolished under Section 11.0236(m).

Sec. 11.02362. DEVELOPMENT OF ENVIRONMENTAL FLOW REGIME RECOMMENDATIONS. (a) For the purposes of this section, the advisory group, not later than November 1, 2007, shall define the geographical extent of each river basin and bay system in this state for the sole purpose of developing environmental flow regime recommendations under this section and adoption of environmental flow standards under Section 11.1471.

(b) The advisory group shall give priority in descending order to the following river basin and bay systems of the state for the purpose of developing environmental flow regime recommendations and adopting environmental flow standards:

(1) the river basin and bay system consisting of the Trinity and San Jacinto Rivers and Galveston Bay and the river basin and bay system consisting of the Sabine and Neches Rivers and Sabine Lake Bay;

(2) the river basin and bay system consisting of the Colorado and Lavaca Rivers and Matagorda and Lavaca Bays and the river basin and bay system consisting of the Guadalupe, San Antonio, Mission, and Aransas Rivers and Mission, Copano, Aransas, and San Antonio Bays; and

(3) the river basin and bay system consisting of the Nueces River and Corpus Christi and Baffin Bays, the river basin and bay system consisting of the Rio Grande, the Rio Grande estuary, and the Lower Laguna Madre, and the Brazos River and its associated bay and estuary system.

(c) For the river basin and bay systems listed in Subsection (b)(1):

(1) the advisory group shall appoint the basin and bay area stakeholders committee not later than November 1, 2007;

(2) the basin and bay area stakeholders committee shall establish a basin and bay expert science team not later than March 1, 2008;

(3) the basin and bay expert science team shall finalize environmental flow regime recommendations and submit them to the basin and bay area stakeholders committee, the advisory group, and the commission not later than March 1, 2009, except that at the request of the basin and bay area stakeholders committee for good cause shown, the advisory group may extend the deadline provided by this subdivision;

(4) the basin and bay area stakeholders committee shall submit to the commission its comments on and recommendations regarding the basin and bay expert science team's recommended environmental flow regime not later than September 1, 2009; and

(5) the commission shall adopt the environmental flow standards as provided by Section 11.1471 not later than September 1, 2010.

(d) The advisory group shall appoint the basin and bay area stakeholders committees for the river basin and bay systems listed in Subsection (b)(2) not later than September 1, 2008, and shall appoint the basin and bay area stakeholders committees for the river basin and bay systems listed in Subsection (b)(3) not later than September 1, 2009. The advisory group shall establish a schedule for the performance of the tasks listed in Subsections (c)(2) through (5) with regard to the river basin and bay systems listed in Subsections (b)(2) and (3) that will result in the adoption of environmental flow standards for that river basin and bay system by the commission as soon as is reasonably possible. Each basin and bay area stakeholders committee and basin and bay expert science team for a river basin and bay system listed in Subsection (b)(2) or (3) shall make recommendations to the advisory group with regard to the schedule applicable to that river basin and bay system. The advisory group shall consider the recommendations of the basin and bay area stakeholders committee and basin and bay expert science team as well as coordinate with, and give appropriate consideration to the recommendations of, the commission, the Parks and Wildlife Department, and the board in establishing the schedule.

(e) For a river basin and bay system or a river basin that does not have an associated bay system in this state not listed in Subsection (b), the advisory group shall establish a schedule for the development of environmental flow regime recommendations and the adoption of environmental flow standards. The advisory group shall develop the schedule in consultation with the commission, the Parks and Wildlife Department, the board, and the pertinent basin and bay area stakeholders committee and basin and bay expert science team. The advisory group may, on its own initiative or on request, modify a schedule established under this subsection to be more responsive to particular circumstances, local desires, changing conditions, or time-sensitive conflicts. This subsection does not prohibit, in a river basin and bay system for which the advisory group has not yet established a schedule for the development of environmental flow regime recommendations and the adoption of environmental flow standards, an effort to develop information on environmental flow needs and ways in which those needs can be met by a voluntary consensus-building process.

(f) The advisory group shall appoint a basin and bay area stakeholders committee for each river basin and bay system in this state for which a schedule for the development of environmental flow regime recommendations and the adoption of environmental flow standards is specified by or established under Subsection (c), (d), or (e). Chapter 2110, Government Code, does not apply to the size, composition, or duration of a basin and bay area stakeholders committee. Each committee must consist of at least 17 members. The membership of each committee must:

(1) reflect a fair and equitable balance of interest groups concerned with the particular river basin and bay system for which the committee is established; and

(2) be representative of appropriate stakeholders, including the following if they have a presence in the particular river basin and bay system for which the committee is established:

(A) agricultural water users, including representatives of each of the following sectors:

(i) agricultural irrigation;

(ii) free-range livestock; and

(iii) concentrated animal feeding operation;

(B) recreational water users, including coastal recreational anglers and businesses supporting water recreation;

(C) municipalities;

(D) soil and water conservation districts;

(E) industrial water users, including representatives of each of the following sectors:

(i) refining;

(ii) chemical manufacturing;

(iii) electricity generation; and

(iv) production of paper products or timber;

(F) commercial fishermen;

(G) public interest groups;

(H) regional water planning groups;

(I) groundwater conservation districts;

(J) river authorities and other conservation and reclamation districts with jurisdiction over surface water; and

(K) environmental interests.

(g) Members of a basin and bay area stakeholders committee serve five-year terms expiring March 1. If a vacancy occurs on a committee, the remaining members of the committee by majority vote shall appoint a member to serve the remainder of the unexpired term.

(h) Meetings of a basin and bay area stakeholders committee must be open to the public.

(i) Each basin and bay area stakeholders committee shall establish a basin and bay expert science team for the river basin and bay system for which the committee is established. The basin and bay expert science team must be established not later than six months after the date the basin and bay area

stakeholders committee is established. Chapter 2110, Government Code, does not apply to the size, composition, or duration of a basin and bay expert science team. Each basin and bay expert science team must be composed of technical experts with special expertise regarding the river basin and bay system or regarding the development of environmental flow regimes. A person may serve as a member of more than one basin and bay expert science team at the same time.

(j) The members of a basin and bay expert science team serve five-year terms expiring April 1. A vacancy on a basin and bay expert science team is filled by appointment by the pertinent basin and bay area stakeholders committee to serve the remainder of the unexpired term.

(k) The science advisory committee shall appoint one of its members to serve as a liaison to each basin and bay expert science team to facilitate coordination and consistency in environmental flow activities throughout the state. The commission, the Parks and Wildlife Department, and the board shall provide technical assistance to each basin and bay expert science team, including information about the studies conducted under Sections 16.058 and 16.059, and may serve as nonvoting members of the basin and bay expert science team to facilitate the development of environmental flow regime recommendations.

(l) Where reasonably practicable, meetings of a basin and bay expert science team must be open to the public.

(m) Each basin and bay expert science team shall develop environmental flow analyses and a recommended environmental flow regime for the river basin and bay system for which the team is established through a collaborative process designed to achieve a consensus. In developing the analyses and recommendations, the science team must consider all reasonably available science, without regard to the need for the water for other uses, and the science team's recommendations must be based solely on the best science available. For the Rio Grande below Fort Quitman, any uses attributable to Mexican water flows must be excluded from environmental flow regime recommendations.

(n) Each basin and bay expert science team shall submit its environmental flow analyses and environmental flow regime recommendations to the pertinent basin and bay area stakeholders committee, the advisory group, and the commission in accordance with the applicable schedule specified by or established under Subsection (c), (d), or (e). The basin and bay area stakeholders committee and the advisory group may not change the environmental flow analyses or environmental flow regime recommendations of the basin and bay expert science team.

(o) Each basin and bay area stakeholders committee shall review the environmental flow analyses and environmental flow regime recommendations submitted by the committee's basin and bay expert science team and shall consider them in conjunction with other factors, including the present and future needs for water for other uses related to water supply planning in the pertinent river basin and bay system. For the Rio Grande, the basin and bay area stakeholders committee shall also consider the water accounting requirements for any international water sharing treaty, minutes, and agreement applicable to the Rio Grande and the effects on allocation of water by the Rio Grande watermaster

in the middle and lower Rio Grande. The Rio Grande basin and bay expert science team may not recommend any environmental flow regime that would result in a violation of a treaty or court decision. The basin and bay area stakeholders committee shall develop recommendations regarding environmental flow standards and strategies to meet the environmental flow standards and submit those recommendations to the commission and to the advisory group in accordance with the applicable schedule specified by or established under Subsection (c), (d), or (e). In developing its recommendations, the basin and bay area stakeholders committee shall operate on a consensus basis to the maximum extent possible.

(p) In recognition of the importance of adaptive management, after submitting its recommendations regarding environmental flow standards and strategies to meet the environmental flow standards to the commission, each basin and bay area stakeholders committee, with the assistance of the pertinent basin and bay expert science team, shall prepare and submit for approval by the advisory group a work plan. The work plan must:

(1) establish a periodic review of the basin and bay environmental flow analyses and environmental flow regime recommendations, environmental flow standards, and strategies, to occur at least once every 10 years;

(2) prescribe specific monitoring, studies, and activities; and

(3) establish a schedule for continuing the validation or refinement of the basin and bay environmental flow analyses and environmental flow regime recommendations, the environmental flow standards adopted by the commission, and the strategies to achieve those standards.

(q) In accordance with the applicable schedule specified by or established under Subsection (c), (d), or (e), the advisory group, with input from the science advisory committee, shall review the environmental flow analyses and environmental flow regime recommendations submitted by each basin and bay expert science team. If appropriate, the advisory group shall submit comments on the analyses and recommendations to the commission for use by the commission in adopting rules under Section 11.1471. Comments must be submitted not later than six months after the date of receipt of the analyses and recommendations.

(r) Notwithstanding the other provisions of this section, in the event the commission, by permit or order, has established an estuary advisory council with specific duties related to implementation of permit conditions for environmental flows, that council may continue in full force and effect and shall act as and perform the duties of the basin and bay area stakeholders committee under this section. The estuary advisory council shall add members from stakeholder groups and from appropriate science and technical groups, if necessary, to fully meet the criteria for membership established in Subsection (f) and shall operate under the provisions of this section.

(s) Each basin and bay area stakeholders committee and basin and bay expert science team is abolished on the date the advisory group is abolished under Section 11.0236(m).

Sec. 11.0237. WATER RIGHTS FOR INSTREAM FLOWS DEDICATED TO ENVIRONMENTAL NEEDS OR BAY AND ESTUARY INFLOWS. (a) The commission may not issue a new permit for instream flows dedicated to environmental needs or bay and estuary inflows. The commission may approve an application to amend an existing permit or certificate of adjudication to change the use to or add a use for instream flows dedicated to environmental needs or bay and estuary inflows.

(b) This section does not alter the commission's obligations under Section 11.042(b) or (c), 11.046(b), 11.085(k)(2)(F), 11.134(b)(3)(D), 11.147, 11.1471, 11.1491, 11.150, 11.152, 16.058, or 16.059.

SECTION 1.08. Section 11.082(b), Water Code, is amended to read as follows:

(b) The state may recover the penalties prescribed in Subsection (a) [of this section] by suit brought for that purpose in a court of competent jurisdiction. The state may seek those penalties regardless of whether a watermaster has been appointed for the water division, river basin, or segment of a river basin where the unlawful use is alleged to have occurred.

SECTION 1.09. Section 11.0841, Water Code, is amended by adding Subsection (c) to read as follows:

(c) For purposes of this section, the Parks and Wildlife Department has:

(1) the rights of a holder of a water right that is held in the Texas Water Trust, including the right to file suit in a civil court to prevent the unlawful use of such a right;

(2) the right to act in the same manner that a holder of a water right may act to protect the holder's rights in seeking to prevent any person from appropriating water in violation of a set-aside established by the commission under Section 11.1471 to meet instream flow needs or freshwater inflow needs; and

(3) the right to file suit in a civil court to prevent the unlawful use of a set-aside established under Section 11.1471.

SECTION 1.10. Section 11.0842(a), Water Code, is amended to read as follows:

(a) If a person violates this chapter, a rule or order adopted under this chapter or Section 16.236 [of this code], or a permit, certified filing, or certificate of adjudication issued under this chapter, the commission may assess an administrative penalty against that person as provided by this section. The commission may assess an administrative penalty for a violation relating to a water division or a river basin or segment of a river basin regardless of whether a watermaster has been appointed for the water division or river basin or segment of the river basin.

SECTION 1.11. Section 11.0843(a), Water Code, is amended to read as follows:

(a) Upon witnessing a violation of this chapter or a rule or order or a water right issued under this chapter, the executive director or a person designated by the executive director, including a watermaster or the watermaster's deputy, [as

~~defined by commission rule,~~] may issue the alleged violator a field citation alleging that a violation has occurred and providing the alleged violator the option of either:

(1) without admitting to or denying the alleged violation, paying an administrative penalty in accordance with the predetermined penalty amount established under Subsection (b) ~~[of this section]~~ and taking remedial action as provided in the citation; or

(2) requesting a hearing on the alleged violation in accordance with Section 11.0842 ~~[of this code]~~.

SECTION 1.12. Section 11.134(b), Water Code, is amended to read as follows:

(b) The commission shall grant the application only if:

(1) the application conforms to the requirements prescribed by this chapter and is accompanied by the prescribed fee;

(2) unappropriated water is available in the source of supply;

(3) the proposed appropriation:

(A) is intended for a beneficial use;

(B) does not impair existing water rights or vested riparian rights;

(C) is not detrimental to the public welfare;

(D) considers any applicable environmental flow standards established under Section 11.1471 and, if applicable, the assessments performed under Sections 11.147(d) and (e) and Sections 11.150, 11.151, and 11.152; and

(E) addresses a water supply need in a manner that is consistent with the state water plan and the relevant approved regional water plan for any area in which the proposed appropriation is located, unless the commission determines that conditions warrant waiver of this requirement; and

(4) the applicant has provided evidence that reasonable diligence will be used to avoid waste and achieve water conservation as defined by ~~[Subdivision (8)(B)]~~ Section 11.002(8)(B) ~~[11.002]~~.

SECTION 1.13. Section 11.147, Water Code, is amended by amending Subsections (b), (d), and (e) and adding Subsections (e-1), (e-2), and (e-3) to read as follows:

(b) In its consideration of an application for a permit to store, take, or divert water, the commission shall assess the effects, if any, of the issuance of the permit on the bays and estuaries of Texas. For permits issued within an area that is 200 river miles of the coast, to commence from the mouth of the river thence inland, the commission shall include in the permit any conditions considered necessary to maintain beneficial inflows to any affected bay and estuary system, to the extent practicable when considering all public interests and the studies mandated by Section 16.058 as evaluated under Section 11.1491~~[- those conditions considered necessary to maintain beneficial inflows to any affected bay and estuary system]~~.

(d) In its consideration of an application to store, take, or divert water, the commission shall include in the permit, to the extent practicable when considering all public interests, those conditions considered by the commission necessary to maintain existing instream uses and water quality of the stream or

river to which the application applies. In determining what conditions to include in the permit under this subsection, the commission shall consider among other factors:

(1) the studies mandated by Section 16.059; and

(2) any water quality assessment performed under Section 11.150.

(e) The commission shall include in the permit, to the extent practicable when considering all public interests, those conditions considered by the commission necessary to maintain fish and wildlife habitats. In determining what conditions to include in the permit under this subsection, the commission shall consider any assessment performed under Section 11.152.

(e-1) Any permit for a new appropriation of water or an amendment to an existing water right that increases the amount of water authorized to be stored, taken, or diverted must include a provision allowing the commission to adjust the conditions included in the permit or amended water right to provide for protection of instream flows or freshwater inflows. With respect to an amended water right, the provision may not allow the commission to adjust a condition of the amendment other than a condition that applies only to the increase in the amount of water to be stored, taken, or diverted authorized by the amendment. This subsection does not affect an appropriation of or an authorization to store, take, or divert water under a permit or amendment to a water right issued before September 1, 2007. The commission shall adjust the conditions if the commission determines, through an expedited public comment process, that such an adjustment is appropriate to achieve compliance with applicable environmental flow standards adopted under Section 11.1471. The adjustment:

(1) in combination with any previous adjustments made under this subsection may not increase the amount of the pass-through or release requirement for the protection of instream flows or freshwater inflows by more than 12.5 percent of the annualized total of that requirement contained in the permit as issued or of that requirement contained in the amended water right and applicable only to the increase in the amount of water authorized to be stored, taken, or diverted under the amended water right;

(2) must be based on appropriate consideration of the priority dates and diversion locations of any other water rights granted in the same river basin that are subject to adjustment under this subsection; and

(3) must be based on appropriate consideration of any voluntary contributions to the Texas Water Trust, and of any voluntary amendments to existing water rights to change the use of a specified quantity of water to or add a use of a specified quantity of water for instream flows dedicated to environmental needs or bay and estuary inflows as authorized by Section 11.0237(a), that actually contribute toward meeting the applicable environmental flow standards.

(e-2) Any water right holder who makes a contribution or amends a water right as described by Subsection (e-1)(3) is entitled to appropriate credit for the benefits of the contribution or amendment against the adjustment of the holder's water right under Subsection (e-1).

(e-3) Notwithstanding Subsections (b)-(e), for the purpose of determining the environmental flow conditions necessary to maintain freshwater inflows to an affected bay and estuary system, existing instream uses and water quality of a stream or river, or fish and aquatic wildlife habitats, the commission shall apply any applicable environmental flow standard, including any environmental flow set-aside, adopted under Section 11.1471 instead of considering the factors specified by those subsections.

SECTION 1.14. Subchapter D, Chapter 11, Water Code, is amended by adding Section 11.1471 to read as follows:

Sec. 11.1471. ENVIRONMENTAL FLOW STANDARDS AND SET-ASIDES. (a) The commission by rule shall:

(1) adopt appropriate environmental flow standards for each river basin and bay system in this state that are adequate to support a sound ecological environment, to the maximum extent reasonable considering other public interests and other relevant factors;

(2) establish an amount of unappropriated water, if available, to be set aside to satisfy the environmental flow standards to the maximum extent reasonable when considering human water needs; and

(3) establish procedures for implementing an adjustment of the conditions included in a permit or an amended water right as provided by Sections 11.147(e-1) and (e-2).

(b) In adopting environmental flow standards for a river basin and bay system under Subsection (a)(1), the commission shall consider:

(1) the definition of the geographical extent of the river basin and bay system adopted by the advisory group under Section 11.02362(a) and the definition and designation of the river basin by the board under Section 16.051(c);

(2) the schedule established by the advisory group under Section 11.02362(d) or (e) for the adoption of environmental flow standards for the river basin and bay system, if applicable;

(3) the environmental flow analyses and the recommended environmental flow regime developed by the applicable basin and bay expert science team under Section 11.02362(m);

(4) the recommendations developed by the applicable basin and bay area stakeholders committee under Section 11.02362(o) regarding environmental flow standards and strategies to meet the flow standards;

(5) any comments submitted by the advisory group to the commission under Section 11.02362(q);

(6) the specific characteristics of the river basin and bay system;

(7) economic factors;

(8) the human and other competing water needs in the river basin and bay system;

(9) all reasonably available scientific information, including any scientific information provided by the science advisory committee; and

(10) any other appropriate information.

(c) Environmental flow standards adopted under Subsection (a)(1) must consist of a schedule of flow quantities, reflecting seasonal and yearly fluctuations that may vary geographically by specific location in a river basin and bay system.

(d) As provided by Section 11.023, the commission may not issue a permit for a new appropriation or an amendment to an existing water right that increases the amount of water authorized to be stored, taken, or diverted if the issuance of the permit or amendment would impair an environmental flow set-aside established under Subsection (a)(2). A permit for a new appropriation or an amendment to an existing water right that increases the amount of water authorized to be stored, taken, or diverted that is issued after the adoption of an applicable environmental flow set-aside must contain appropriate conditions to ensure protection of the environmental flow set-aside.

(e) An environmental flow set-aside established under Subsection (a)(2) for a river basin and bay system other than the middle and lower Rio Grande must be assigned a priority date corresponding to the date the commission receives environmental flow regime recommendations from the applicable basin and bay expert science team and be included in the appropriate water availability models in connection with an application for a permit for a new appropriation or for an amendment to an existing water right that increases the amount of water authorized to be stored, taken, or diverted.

(f) An environmental flow standard or environmental flow set-aside adopted under Subsection (a) may be altered by the commission in a rulemaking process undertaken in accordance with a schedule established by the commission. In establishing a schedule, the commission shall consider the applicable work plan approved by the advisory group under Section 11.02362(p). The commission's schedule may not provide for the rulemaking process to occur more frequently than once every 10 years unless the work plan provides for a periodic review under Section 11.02362(p) to occur more frequently than once every 10 years. In that event, the commission may provide for the rulemaking process to be undertaken in conjunction with the periodic review if the commission determines that schedule to be appropriate. A rulemaking process undertaken under this subsection must provide for the participation of stakeholders having interests in the particular river basin and bay system for which the process is undertaken.

SECTION 1.15. The heading to Section 11.148, Water Code, is amended to read as follows:

Sec. 11.148. EMERGENCY SUSPENSION OF PERMIT CONDITIONS AND EMERGENCY AUTHORITY TO MAKE AVAILABLE WATER SET ASIDE FOR ENVIRONMENTAL FLOWS.

SECTION 1.16. Section 11.148, Water Code, is amended by adding Subsection (a-1) and amending Subsections (b) and (c) to read as follows:

(a-1) State water that is set aside by the commission to meet the needs for freshwater inflows to affected bays and estuaries and instream uses under Section 11.1471(a)(2) may be made available temporarily for other essential beneficial uses if the commission finds that an emergency exists that cannot practically be resolved in another way.

(b) Before the commission suspends a permit condition under Subsection (a) or makes water available temporarily under Subsection (a-1) ~~[of this section]~~, it must give written notice to the Parks and Wildlife Department of the proposed action ~~[suspension]~~. The commission shall give the Parks and Wildlife Department an opportunity to submit comments on the proposed action ~~[suspension]~~ within 72 hours from such time and the commission shall consider those comments before issuing its order implementing the proposed action ~~[imposing the suspension]~~.

(c) The commission may suspend the permit condition under Subsection (a) or make water available temporarily under Subsection (a-1) without notice to any other interested party other than the Parks and Wildlife Department as provided by Subsection (b) ~~[of this section]~~. However, all affected persons shall be notified immediately by publication, and a hearing to determine whether the suspension should be continued shall be held within 15 days of the date on which the order to suspend is issued.

SECTION 1.17. Section 11.1491(a), Water Code, is amended to read as follows:

(a) The Parks and Wildlife Department and the commission shall have joint responsibility to review the studies prepared under Section 16.058 ~~[of this code]~~, to determine inflow conditions necessary for the bays and estuaries, and to provide information necessary for water resources management. Each agency shall designate an employee to share equally in the oversight of the program. Other responsibilities shall be divided between the Parks and Wildlife Department and the commission to maximize present in-house capabilities of personnel and to minimize costs to the state. Each agency shall have reasonable access to all information produced by the other agency. Publication of reports completed under this section shall be submitted for comment to ~~[both]~~ the commission, ~~[and]~~ the Parks and Wildlife Department, the advisory group, the science advisory committee, and any applicable basin and bay area stakeholders committee and basin and bay expert science team.

SECTION 1.18. Section 11.329(g), Water Code, is amended to read as follows:

(g) The commission may not assess costs under this section against a holder of a non-priority hydroelectric right that owns or operates privately owned facilities that collectively have a capacity of less than two megawatts or against a holder of a water right placed in the Texas Water Trust for a term of at least 20 years. ~~[This subsection is not intended to affect in any way the fees assessed on a water right holder by the commission under Section 1.29(d), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993. For purposes of Section 1.29(d), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, a holder of a non-priority hydroelectric right that owns or operates privately owned facilities~~

~~that collectively have a capacity of less than two megawatts shall be assessed fees at the same rate per acre foot charged to a holder of a non-priority hydroelectric right that owns or operates privately owned facilities that collectively have a capacity of more than two megawatts.]~~

SECTION 1.19. Section 11.404(e), Water Code, is amended to read as follows:

(e) The court may not assess costs and expenses under this section against:

(1) a holder of a non-priority hydroelectric right that owns or operates privately owned facilities that collectively have a capacity of less than two megawatts; or

(2) a holder of a water right placed in the Texas Water Trust for a term of at least 20 years.

SECTION 1.20. Subchapter I, Chapter 11, Water Code, is amended by adding Section 11.4531 to read as follows:

Sec. 11.4531. WATERMASTER ADVISORY COMMITTEE. (a) For each river basin or segment of a river basin for which the executive director appoints a watermaster under this subchapter, the executive director shall appoint a watermaster advisory committee consisting of at least nine but not more than 15 members. A member of the advisory committee must be a holder of a water right or a representative of a holder of a water right in the river basin or segment of the river basin for which the watermaster is appointed. In appointing members to the advisory committee, the executive director shall consider:

(1) geographic representation;

(2) amount of water rights held;

(3) different types of holders of water rights and users, including water districts, municipal suppliers, irrigators, and industrial users; and

(4) experience and knowledge of water management practices.

(b) An advisory committee member is not entitled to reimbursement of expenses or to compensation.

(c) An advisory committee member serves a two-year term expiring August 31 of each odd-numbered year and holds office until a successor is appointed.

(d) The advisory committee shall meet within 30 days after the date the initial appointments have been made and shall select a presiding officer to serve a one-year term. The committee shall meet regularly as necessary.

(e) The advisory committee shall:

(1) make recommendations to the executive director regarding activities of benefit to the holders of water rights in the administration and distribution of water to holders of water rights in the river basin or segment of the river basin for which the watermaster is appointed;

(2) review and comment to the executive director on the annual budget of the watermaster operation; and

(3) perform other advisory duties as requested by the executive director regarding the watermaster operation or as requested by holders of water rights and considered by the committee to benefit the administration of water rights in the river basin or segment of the river basin for which the watermaster is appointed.

SECTION 1.21. Sections 11.454 and 11.455, Water Code, are amended to read as follows:

Sec. 11.454. DUTIES AND AUTHORITY OF THE WATERMASTER. Section 11.327 applies to the duties and authority of a watermaster appointed for a river basin or segment of a river basin under this subchapter in the same manner as that section applies to the duties and authority of a watermaster appointed for a water division under Subchapter G ~~[A watermaster as the agent of the commission and under the executive director's supervision shall:~~

~~[(1) divide the water of the streams or other sources of supply of his segment or basin in accordance with the authorized water rights;~~

~~[(2) regulate or cause to be regulated the controlling works of reservoirs and diversion works in time of water shortage, as is necessary because of the rights existing in the streams of his segment or basin, or as is necessary to prevent the waste of water or its diversion, taking, storage, or use in excess of the quantities to which the holders of water rights are lawfully entitled; and~~

~~[(3) perform any other duties and exercise any authority directed by the commission].~~

Sec. 11.455. COMPENSATION AND EXPENSES OF WATERMASTER ~~[ASSESSMENTS]~~. (a) Section 11.329 applies to the payment of the compensation and expenses of a watermaster appointed for a river basin or segment of a river basin under this subchapter in the same manner as that section applies to the payment of the compensation and expenses of a watermaster appointed for a water division under Subchapter G.

~~(b) The executive director shall deposit the assessments collected under this section to the credit of the watermaster fund.~~

~~(c) Money deposited under this section to the credit of the watermaster fund may be used only for the purposes specified by Section 11.3291 with regard to the watermaster operation under this subchapter with regard to which the assessments were collected [The commission may assess the costs of the watermaster against all persons who hold water rights in the river basin or segment of the river basin under the watermaster's jurisdiction in accordance with Section 11.329 of this code].~~

SECTION 1.22. Subchapter F, Chapter 15, Water Code, is amended by adding Section 15.4063 to read as follows:

Sec. 15.4063. ENVIRONMENTAL FLOWS FUNDING. The board may authorize the use of money in the research and planning fund:

~~(1) to compensate the members of the Texas environmental flows science advisory committee established under Section 11.02361 for attendance and participation at meetings of the committee and for transportation, meals, lodging, or other travel expenses associated with attendance at those meetings as provided by the General Appropriations Act;~~

~~(2) for contracts with cooperating state and federal agencies and universities and with private entities as necessary to provide technical assistance to enable the Texas environmental flows science advisory committee and the basin and bay expert science teams established under Section 11.02362 to perform their statutory duties;~~

(3) to compensate the members of the basin and bay expert science teams established under Section 11.02362 for attendance and participation at meetings of the basin and bay expert science teams and for transportation, meals, lodging, or other travel expenses associated with attendance at those meetings as provided by the General Appropriations Act; and

(4) for contracts with political subdivisions designated as representatives of basin and bay area stakeholders committees established under Section 11.02362 to fund all or part of the administrative expenses incurred in conducting meetings of the basin and bay area stakeholders committees or the pertinent basin and bay expert science teams.

SECTION 1.23. Section 16.059(d), Water Code, is amended to read as follows:

(d) The priority studies shall be completed not later than December 31, 2016 ~~2010~~. The Parks and Wildlife Department, the commission, and the board ~~shall~~ establish a work plan that prioritizes the studies and that sets interim deadlines providing for publication of flow determinations for individual rivers and streams on a reasonably consistent basis throughout the prescribed study period. Before publication, completed studies shall be submitted for comment to the commission, the board, and the Parks and Wildlife Department.

SECTION 1.24. Section 26.0135(h), Water Code, as amended by Chapters 234 and 965, Acts of the 77th Legislature, Regular Session, 2001, is reenacted and amended to read as follows:

(h) The commission shall apportion, assess, and recover the reasonable costs of administering the water quality management programs under this section from users of water and wastewater permit holders in the watershed according to the records of the commission generally in proportion to their right, through permit or contract, to use water from and discharge wastewater in the watershed. Irrigation water rights, ~~and~~ non-priority hydroelectric rights of a water right holder that owns or operates privately owned facilities that collectively have a capacity of less than two megawatts, and water rights held in the Texas Water Trust for terms of at least 20 years will not be subject to this assessment. The cost to river authorities and others to conduct water quality monitoring and assessment shall be subject to prior review and approval by the commission as to methods of allocation and total amount to be recovered. The commission shall adopt rules to supervise and implement the water quality monitoring, assessment, and associated costs. The rules shall ensure that water users and wastewater dischargers do not pay excessive amounts, that program funds are equitably apportioned among basins, that a river authority may recover no more than the actual costs of administering the water quality management programs called for in this section, and that no municipality shall be assessed cost for any efforts that duplicate water quality management activities described in Section 26.177 ~~[of this chapter]~~. The rules concerning the apportionment and assessment of reasonable costs shall provide for a recovery of not more than \$5,000,000 annually. Costs recovered by the commission are to be deposited to the credit of the water resource management account and may be used only to accomplish the purposes of this section. The commission may apply not more than 10 percent of

the costs recovered annually toward the commission's overhead costs for the administration of this section and the implementation of regional water quality assessments. The commission, with the assistance and input of each river authority, shall file a written report accounting for the costs recovered under this section with the governor, the lieutenant governor, and the speaker of the house of representatives on or before December 1 of each even-numbered year.

SECTION 1.25. Section 11.1491(b), Water Code, is repealed.

SECTION 1.26. (a) The governor, lieutenant governor, and speaker of the house of representatives shall appoint the initial members of the environmental flows advisory group as provided by Section 11.0236, Water Code, as added by this article, as soon as practicable on or after the effective date of this article.

(b) As soon as practicable after taking office, the initial members of the environmental flows advisory group shall appoint the initial members of the Texas environmental flows science advisory committee as provided by Section 11.02361, Water Code, as added by this article. The terms of the initial members of the committee expire March 1, 2012.

(c) The environmental flows advisory group shall appoint the members of each basin and bay area stakeholders committee as provided by Section 11.02362, Water Code, as added by this article. The terms of the initial members of each committee expire March 1 of the fifth year that begins after the year in which the initial appointments are made.

(d) Each basin and bay area stakeholders committee shall appoint the members of the basin and bay expert science team for the river basin and bay system for which the committee is established as provided by Section 11.02362, Water Code, as added by this article. The terms of the initial members of each team expire April 1 of the fifth year that begins after the year in which the initial appointments are made.

(e) The executive director of the Texas Commission on Environmental Quality shall appoint the members of the watermaster advisory committee under Section 11.4531, Water Code, as added by this article, for each river basin or segment of a river basin for which the executive director appoints a watermaster under Subchapter I, Chapter 11, Water Code. The terms of the initial members of each committee expire August 31 of the first odd-numbered year that begins after the year in which the initial appointments are made.

SECTION 1.27. The changes in law made by this article relating to a permit for a new appropriation of water or to an amendment to an existing water right that increases the amount of water authorized to be stored, taken, or diverted apply only to:

(1) water appropriated under a permit for a new appropriation of water the application for which is pending with the Texas Commission on Environmental Quality on the effective date of this Act or is filed with the commission on or after that date; or

(2) the increase in the amount of water authorized to be stored, taken, or diverted under an amendment to an existing water right that increases the amount of water authorized to be stored, taken, or diverted and the application for which is pending with the Texas Commission on Environmental Quality on the effective date of this Act or is filed with the commission on or after that date.

ARTICLE 2. EDWARDS AQUIFER AUTHORITY

SECTION 2.01. Section 1.11, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended by amending Subsection (f) and adding Subsections (f-1) and (f-2) to read as follows:

(f) The authority may own, finance, design, ~~[contract with a person who uses water from the aquifer for the authority or that person to]~~ construct, operate, or ~~[own, finance, and]~~ maintain recharge ~~[water supply]~~ facilities. ~~[Management fees or special fees may not be used for purchasing or operating these facilities.]~~ For the purpose of this subsection, "recharge ~~[water supply]~~ facility" means ~~[includes]~~ a dam, reservoir, ~~[treatment facility, transmission facility,]~~ or other method of recharge project and associated facilities, structures, or works but does not include a facility to recirculate water at Comal or San Marcos Springs.

(f-1) The authority shall provide written notice of the intent to own, finance, design, construct, operate, or maintain recharge facilities to:

(1) each groundwater conservation district in the area in which the recharge facility will be located;

(2) the mayor of each municipality in the area in which the recharge facility will be located;

(3) the county judge of each county in the area in which the recharge facility will be located; and

(4) each member of the legislature who represents the area in which the proposed recharge facility will be located.

(f-2) Any entity within the county in which a recharge facility is to be constructed shall be provided opportunity for input and allowed to provide proposals for partnering with the authority to own, finance, design, construct, operate, or maintain the recharge facility.

SECTION 2.02. Sections 1.14(a), (c), (e), (f), and (h), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, are amended to read as follows:

(a) Authorizations to withdraw water from the aquifer and all authorizations and rights to make a withdrawal under this Act shall be limited in accordance with this section to:

(1) protect the water quality of the aquifer;

(2) protect the water quality of the surface streams to which the aquifer provides springflow;

(3) achieve water conservation;

(4) maximize the beneficial use of water available for withdrawal from the aquifer;

(5) recognize the extent of the hydro-geologic connection and interaction between surface water and groundwater;

(6) protect aquatic and wildlife habitat;

(7) ~~[(6)]~~ protect species that are designated as threatened or endangered under applicable federal or state law; and

(8) ~~[(7)]~~ provide for instream uses, bays, and estuaries.

(c) Except as provided by Subsections ~~[(4)]~~, (f) ~~[(5)]~~ and (h) of this section and Section 1.26 of this article, for the period beginning January 1, 2008, the amount of permitted withdrawals from the aquifer may not exceed or be less than 572,000 [400,000] acre-feet of water for each calendar year, which is the sum of all regular permits issued or for which an application was filed and issuance was pending action by the authority as of January 1, 2005.

(e) The authority may not allow withdrawals from the aquifer through wells drilled after June 1, 1993, except for replacement, test, or exempt wells or to the extent that the authority approves an amendment to an initial regular permit to authorize a change in the point of withdrawal under that permit [additional water as provided by Subsection (d) and then on an interruptible basis].

(f) If the level of the aquifer is equal to or greater than 660 [650] feet above mean sea level as measured at Well J-17, the authority may authorize withdrawal from the San Antonio pool, on an uninterruptible basis, of permitted amounts. If the level of the aquifer is equal to or greater than 845 feet at Well J-27, the authority may authorize withdrawal from the Uvalde pool, on an uninterruptible basis, of permitted amounts. [The authority shall limit the additional withdrawals to ensure that springflows are not affected during critical drought conditions.]

(h) To accomplish the purposes of this article, ~~[by June 1, 1994,]~~ the authority, through a program, shall implement and enforce water management practices, procedures, and methods to ensure that, not later than December 31, 2012, the continuous minimum springflows of the Comal Springs and the San Marcos Springs are maintained to protect endangered and threatened species to the extent required by federal law and to achieve other purposes provided by Subsection (a) of this section and Section 1.26 of this article. The authority from time to time as appropriate may revise the practices, procedures, and methods. To meet this requirement, the authority shall require:

(1) phased adjustments to [reductions in] the amount of water that may be used or withdrawn by existing users or categories of other users, including adjustments in accordance with the authority's critical period management plan established under Section 1.26 of this article; or

(2) implementation of alternative management practices, procedures, and methods.

SECTION 2.03. Section 1.16(g), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

(g) The authority shall issue an initial regular permit without a term, and an initial regular permit remains in effect until the permit is abandoned or ~~[(5)] cancelled[-or retired].~~

SECTION 2.04. Section 1.19(b), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

(b) Withdrawal of water under a term permit must be consistent with the authority's critical period management plan established under Section 1.26 of this article. A holder of a term permit may not withdraw water from the San Antonio pool of the aquifer unless:

(1) the level of the aquifer is higher than 675 ~~[665]~~ feet above sea level, as measured at Well J-17;

(2) the flow at Comal Springs as determined by Section 1.26(c) of this article is greater than 350 cubic feet per second; and

(3) the flow at San Marcos Springs as determined by Section 1.26(c) of this article is greater than 200 cubic feet per second.

SECTION 2.05. Section 1.22(a), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

(a) The authority may acquire permitted rights to use water from the aquifer for the purposes of:

(1) holding those rights in trust for sale or transfer of the water or the rights to persons within the authority's jurisdiction who may use water from the aquifer;

(2) holding those rights in trust as a means of managing overall demand on the aquifer; or

(3) holding those rights for resale ~~[or retirement as a means of complying with pumping reduction requirements under this article; or~~

~~[(4) retiring those rights, including those rights already permitted].~~

SECTION 2.06. Article 1, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended by amending Section 1.26 and adding Section 1.26A to read as follows:

Sec. 1.26. CRITICAL PERIOD MANAGEMENT PLAN. (a) After review of the recommendations received in the program document, as prescribed by Section 1.26A of this article, the ~~[The]~~ authority by rule shall adopt ~~[prepare and coordinate implementation of]~~ a ~~[plan for]~~ critical period management plan consistent with Sections 1.14(a), (f), and (h) of this article ~~[on or before September 1, 1995]~~. The critical period management plan shall be adopted by the authority no later than six months after the authority's receipt of the program document. On adoption of the critical period management plan, the authority shall provide a written report to the governor, lieutenant governor, and speaker of the house of representatives describing the actions taken in response to each recommendation and, for each recommendation not implemented, the reason it was not implemented. The plan ~~[mechanisms]~~ must:

(1) distinguish between discretionary use and nondiscretionary use;

(2) require reductions of all discretionary use to the maximum extent feasible;

(3) require utility pricing, to the maximum extent feasible, to limit discretionary use by the customers of water utilities; ~~[and]~~

(4) require reduction of nondiscretionary use by permitted or contractual users, to the extent further reductions are necessary, in the reverse order of the following water use preferences:

(A) municipal, domestic, and livestock;

- (B) industrial and crop irrigation;
- (C) residential landscape irrigation;
- (D) recreational and pleasure; and
- (E) other uses that are authorized by law; and

(5) allow irrigation use to continue in order to permit the user to complete the irrigation of a crop in progress.

(b) In this section, "MSL" means the elevation above mean sea level, measured in feet, of the surface of the water in a well, and "CFS" means cubic feet per second. Not later than January 1, 2008, the authority shall, by rule, adopt and enforce a critical period management plan with withdrawal reduction percentages in the amounts indicated in Tables 1 and 2 whether according to the index well levels or the Comal or San Marcos Springs flow as applicable, for a total in critical period Stage IV of 40 percent of the permitted withdrawals under Table 1 and 35 percent under Table 2:

TABLE 1 CRITICAL PERIOD WITHDRAWAL REDUCTION STAGES FOR THE SAN ANTONIO POOL					
Comal Springs	San Marcos Springs	Index Well J-17	Critical Period	Withdrawal Reduction-San Antonio	
Flow cfs	Flow	MSL	Stage	Pool	
<u><225</u>	<u><96</u>	<u><660</u>	<u>I</u>	<u>20%</u>	
<u><200</u>	<u><80</u>	<u><630</u>	<u>II</u>	<u>30%</u>	
<u><150</u>	<u>N/A</u>	<u><640</u>	<u>III</u>	<u>35%</u>	
<u><100</u>	<u>N/A</u>	<u><630</u>	<u>IV</u>	<u>40%</u>	

TABLE 2 CRITICAL PERIOD WITHDRAWAL REDUCTION STAGES FOR THE UVALDE POOL		
Withdrawal Reduction-Uvalde	Index Well J-27 Level	Critical Period Stage
<u>Pool</u>	<u>MSL</u>	<u>I</u>
<u>N/A</u>	<u>—</u>	<u>II</u>
<u>5%</u>	<u><850</u>	<u>III</u>
<u>20%</u>	<u><845</u>	<u>IV</u>
<u>35%</u>	<u><842</u>	<u>IV</u>

(c) A change to a critical period stage with higher withdrawal reduction percentages is triggered if the 10-day average of daily springflows at the Comal Springs or the San Marcos Springs or the 10-day average of daily aquifer levels at the J-17 Index Well drops below the lowest number of any of the trigger levels indicated in Table 1. A change to a critical period stage with lower withdrawal reduction percentages is triggered only when the 10-day average of daily springflows at the Comal Springs and the San Marcos Springs and the 10-day average of daily aquifer levels at the J-17 Index Well are all above the same stage trigger level. The authority may adjust the withdrawal percentages for Stage IV in Tables 1 and 2 if necessary in order to comply with Subsection (d) or (e) of this section.

(d) Beginning September 1, 2007, the authority may not require the volume of permitted withdrawals to be less than an annualized rate of 340,000 acre-feet, under critical period Stage IV.

(e) After January 1, 2013, the authority may not require the volume of permitted withdrawals to be less than an annualized rate of 320,000 acre-feet, under critical period Stage IV unless, after review and consideration of the recommendations provided under Section 1.26A of this article, the authority determines that a different volume of withdrawals is consistent with Sections 1.14(a), (f), and (h) of this article in maintaining protection for federally listed threatened and endangered species associated with the aquifer to the extent required by federal law.

(f) Notwithstanding Subsections (d) and (e) of this section, the authority may require further withdrawal reductions before reviewing and considering the recommendations provided under Section 1.26A of this article if the discharge of Comal Springs or San Marcos Springs declines an additional 15 percent after Stage IV withdrawal reductions are imposed under Subsection (b) of this section. This subsection expires on the date that critical period management plan rules adopted by the authority based on the recommendations provided under Section 1.26A of this article take effect.

(g) Notwithstanding the existence of any stage of an interim or final critical period adopted by the authority under this section, a person authorized to withdraw groundwater from the aquifer for irrigation purposes shall, without regard to the withdrawal reductions prescribed for that stage, be allowed to finish a crop already planted in the calendar year during which the critical period is in effect.

Sec. 1.26A. DEVELOPMENT OF WITHDRAWAL REDUCTION LEVELS AND STAGES FOR CRITICAL PERIOD MANAGEMENT THROUGH RECOVERY IMPLEMENTATION PROGRAM. (a) The authority, with the assistance of Texas A&M University, shall cooperatively develop a recovery implementation program through a facilitated, consensus-based process that involves input from the United States Fish and Wildlife Service, other appropriate federal agencies, and all interested stakeholders, including those listed under Subsection (e)(1) of this section. The recovery implementation program shall be developed for the species that are:

- (1) listed as threatened or endangered species under federal law; and
- (2) associated with the aquifer.

(b) The authority shall enter into a memorandum of agreement with the United States Fish and Wildlife Service, other appropriate federal agencies, the Texas Commission on Environmental Quality, the Parks and Wildlife Department, the Department of Agriculture, the Texas Water Development Board, and other stakeholders, not later than December 31, 2007, in order to develop a program document that may be in the form of a habitat conservation plan used in issuance of an incidental take permit as outlined in Subsection (d) of this section.

(c) The authority shall enter into an implementing agreement with the United States Fish and Wildlife Service, other appropriate federal agencies, the Texas Commission on Environmental Quality, the Parks and Wildlife Department, the Department of Agriculture, the Texas Water Development Board, and other stakeholders to develop a program document that may be in the form of a habitat conservation plan used in issuance of an incidental take permit as outlined in Subsection (d) of this section not later than December 31, 2009.

(d) The authority, the Texas Commission on Environmental Quality, the Parks and Wildlife Department, the Department of Agriculture, the Texas Water Development Board, and other stakeholders shall jointly prepare a program document that may be in the form of a habitat conservation plan used in issuance of an incidental take permit with the United States secretary of the interior, through the United States Fish and Wildlife Service and other appropriate federal agencies, under Section 4 or Section 6, Endangered Species Act of 1973 (16 U.S.C. Section 1533 or 1535), as applicable, based on the program developed under Subsection (a) of this section. The program document shall:

(1) provide recommendations for withdrawal adjustments based on a combination of spring discharge rates of the San Marcos and Comal Springs and levels at the J-17 and J-27 wells during critical periods to ensure that federally listed, threatened, and endangered species associated with the Edwards Aquifer will be protected at all times, including throughout a repeat of the drought of record;

(2) include provisions to pursue cooperative and grant funding to the extent available from all state, federal, and other sources for eligible programs included in the cooperative agreement under Subsection (c) of this section, including funding for a program director; and

(3) be approved and executed by the authority, the Texas Commission on Environmental Quality, the Parks and Wildlife Department, the Department of Agriculture, the Texas Water Development Board, and the United States Fish and Wildlife Service not later than September 1, 2012, and the agreement shall take effect December 31, 2012.

(e) Texas A&M University shall assist in the creation of a steering committee to oversee and assist in the development of the cooperative agreement under Subsection (c) of this section. The steering committee must be created not later than September 30, 2007. The initial steering committee shall be composed of:

(1) a representative of each of the following entities, as appointed by the governing body of that entity:

- (A) the Edwards Aquifer Authority;
- (B) the Texas Commission on Environmental Quality;
- (C) the Parks and Wildlife Department;
- (D) the Department of Agriculture;
- (E) the Texas Water Development Board;
- (F) the San Antonio Water System;
- (G) the Guadalupe-Blanco River Authority;
- (H) the San Antonio River Authority;

- (I) the South Central Texas Water Advisory Committee;
 - (J) Bexar County;
 - (K) CPS Energy; and
 - (L) Bexar Metropolitan Water District or its successor; and
 - (2) nine other persons who respectively must be:
 - (A) a representative of a holder of an initial regular permit issued to a retail public utility located west of Bexar County, to be appointed by the authority;
 - (B) a representative of a holder of an initial regular permit issued by the authority for industrial purposes, to be appointed by the authority;
 - (C) a representative of a holder of an industrial surface water right in the Guadalupe River Basin, to be appointed by the Texas Commission on Environmental Quality;
 - (D) a representative of a holder of a municipal surface water right in the Guadalupe River Basin, to be appointed by the Texas Commission on Environmental Quality;
 - (E) a representative of a retail public utility in whose service area the Comal Springs or San Marcos Springs is located;
 - (F) a representative of a holder of an initial regular permit issued by the authority for irrigation, to be appointed by the commissioner of agriculture;
 - (G) a representative of an agricultural producer from the Edwards Aquifer region, to be appointed by the commissioner of agriculture;
 - (H) a representative of environmental interests from the Texas Living Waters Project, to be appointed by the governing body of that project; and
 - (I) a representative of recreational interests in the Guadalupe River Basin, to be appointed by the Parks and Wildlife Commission.
- (f) The steering committee shall work with Texas A&M University to:
 - (1) establish a regular meeting schedule and publish that schedule to encourage public participation; and
 - (2) not later than October 31, 2007, hire a program director to be housed at Texas A&M University.
- (g) Texas A&M University may accept outside funding to pay the salary and expenses of the program director hired under this section and any expenses associated with the university's participation in the creation of the steering committee or subcommittees established by the steering committee.
- (h) Where reasonably practicable or as required by law, any meeting of the steering committee, the Edwards Aquifer area expert science subcommittee, or another subcommittee established by the steering committee must be open to the public.
- (i) The steering committee appointed under this section shall appoint an Edwards Aquifer area expert science subcommittee not later than December 31, 2007. The expert science subcommittee must be composed of an odd number of not fewer than seven or more than 15 members who have technical expertise regarding the Edwards Aquifer system, the threatened and endangered species that inhabit that system, springflows, or the development of withdrawal

limitations. The Bureau of Economic Geology of The University of Texas at Austin and the River Systems Institute at Texas State University shall assist the expert science subcommittee. Chapter 2110, Government Code, does not apply to the size, composition, or duration of the expert science subcommittee.

(j) The Edwards Aquifer area expert science subcommittee shall, among other things, analyze species requirements in relation to spring discharge rates and aquifer levels as a function of recharge and withdrawal levels. Based on that analysis and the elements required to be considered by the authority under Section 1.14 of this article, the expert science subcommittee shall, through a collaborative process designed to achieve consensus, develop recommendations for withdrawal reduction levels and stages for critical period management including, if appropriate, establishing separate and possibly different withdrawal reduction levels and stages for critical period management for different pools of the aquifer needed to maintain target spring discharge and aquifer levels. The expert science subcommittee shall submit its recommendations to the steering committee and all other stakeholders involved in the recovery implementation program under this section.

(k) The initial recommendations of the Edwards Aquifer area expert science subcommittee must be completed and submitted to the steering committee and other stakeholders not later than December 31, 2008, and should include an evaluation:

(1) of the option of designating a separate San Marcos pool, of how such a designation would affect existing pools, and of the need for an additional well to measure the San Marcos pool, if designated;

(2) of the necessity to maintain minimum springflows, including a specific review of the necessity to maintain a flow to protect the federally threatened and endangered species; and

(3) as to whether adjustments in the trigger levels for the San Marcos Springs flow for the San Antonio pool should be made.

(l) In developing its recommendations, the Edwards Aquifer area expert science subcommittee shall:

(1) consider all reasonably available science, including any Edwards Aquifer-specific studies, and base its recommendations solely on the best science available; and

(2) operate on a consensus basis to the maximum extent possible.

(m) After development of the cooperative agreement, the steering committee, with the assistance of the Edwards Aquifer area expert science subcommittee and with input from the other recovery implementation program stakeholders, shall prepare and submit recommendations to the authority. The recommendations must:

(1) include a review of the critical period management plan, to occur at least once every five years;

(2) include specific monitoring, studies, and activities that take into account changed conditions and information that more accurately reflects the importance of critical period management; and

(3) establish a schedule for continuing the validation or refinement of the critical period management plan adopted by the authority and the strategies to achieve the program and cooperative agreement described by this section.

(n) In this subsection, "recharge facility" means a dam, reservoir, or other method of recharge project and associated facilities, structures, or works but does not include facilities designed to recirculate water at Comal or San Marcos Springs. The steering committee shall establish a recharge facility feasibility subcommittee to:

(1) assess the need for the authority or any other entity to own, finance, design, construct, operate, or maintain recharge facilities;

(2) formulate plans to allow the authority or any other entity to own, finance, design, construct, operate, or maintain recharge facilities;

(3) make recommendations to the steering committee as to how to calculate the amount of additional water that is made available for use from a recharge project including during times of critical period reductions;

(4) maximize available federal funding for the authority or any other entity to own, finance, design, construct, operate, or maintain recharge facilities; and

(5) evaluate the financing of recharge facilities, including the use of management fees or special fees to be used for purchasing or operating the facilities.

(o) The steering committee may establish other subcommittees as necessary, including a hydrology subcommittee, a community outreach and education subcommittee, and a water supply subcommittee.

(p) On execution of the memorandum of agreement described by Subsection (b) of this section, the steering committee described by Subsection (e) of this section may, by majority vote of its members, vote to add members to the steering committee, change the makeup of the committee, or dissolve the committee. If the steering committee is dissolved, the program director hired under Subsection (f) of this section shall assume the duties of the steering committee.

(q) The authority shall provide an annual report to the governor, lieutenant governor, and speaker of the house of representatives not later than January 1 of each year that details:

(1) the status of the recovery implementation program development process;

(2) the likelihood of completion of the recovery implementation program and the cooperative agreement described by Subsection (c) of this section;

(3) the extent to which the recommendations of the Edwards Aquifer area expert science subcommittee are being considered and implemented by the authority;

(4) any other actions that need to be taken in response to each recommendation;

(5) reasons explaining why any recommendation received has not been implemented; and

(6) any other issues the authority considers of value for the efficient and effective completion of the program and the cooperative agreement under this section.

SECTION 2.07. Sections 1.29(b), (h), and (i), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, are amended to read as follows:

(b) The authority shall assess equitable aquifer management fees based on aquifer use under the water management plan to finance its administrative expenses and programs authorized under this article. Each water district governed by Chapter 36 ~~[52]~~, Water Code, that is within the authority's boundaries may contract with the authority to pay expenses of the authority through taxes in lieu of user fees to be paid by water users in the district. The contract must provide that the district will pay an amount equal to the amount that the water users in the district would have paid through user fees. The authority may not collect a total amount of fees and taxes that is more than is reasonably necessary for the administration of the authority.

(h) Fees assessed by the authority may not be used to fund the cost of reducing withdrawals or retiring permits or of judgments or claims related to withdrawals or permit retirements ~~[Special fees collected under Subsection (c) or (d) of this section may not be used to finance a surface water supply reservoir project].~~

(i) The authority and other stakeholders, including state agencies, listed under Section 1.26A of this article shall provide money as necessary ~~[, but not to exceed five percent of the money collected under Subsection (d) of this section,]~~ to finance the activities of the steering committee and any subcommittees appointed by the steering committee and the program director of the recovery implementation program under Section 1.26A of this article. The authority shall provide, as necessary, up to \$75,000 annually, adjusted for changes in the consumer price index, to finance the South Central Texas Water Advisory Committee's administrative expenses and programs authorized under this article.

SECTION 2.08. Section 1.45(a), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

(a) The authority may own, finance, design, construct, [build or] operate, and maintain recharge dams and associated facilities, structures, or works in the contributing or recharge area of the aquifer if the recharge is made to increase the yield of the aquifer, [and] the recharge project does not impair senior water rights or vested riparian rights, and the recharge project is not designed to recirculate water at Comal or San Marcos Springs.

SECTION 2.09. Sections 1.14(b) and (d), Section 1.21, and Sections 1.29(a), (c), and (d), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, are repealed.

SECTION 2.10. (a) Before January 1, 2012, a suit may not be instituted in a state court contesting:

- (1) the validity or implementation of this article; or
- (2) the groundwater withdrawal amounts recognized in Section 2.02 of this Act.

(b) If applicable, a party that files a suit in any court shall be automatically removed from the steering committee established under Section 1.26A, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, as added by this article.

(c) A suit against the Edwards Aquifer Authority may not be instituted or maintained by a person who owns, holds, or uses a surface water right and claims injury or potential injury to that right for any reason, including any actions taken by the Edwards Aquifer Authority to implement or enforce Article 1, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, as amended. This section does not apply to suits brought pursuant to Section 1.45, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993.

SECTION 2.11. The change in law made by this article applies only to a cause of action filed on or after the effective date of this article. A cause of action that is filed before the effective date of this article is governed by the law in effect immediately before the effective date of this article, and that law is continued in effect for that purpose.

SECTION 2.12. 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 immediate effect, this article takes effect September 1, 2007.

ARTICLE 3. EFFECTIVE DATE

SECTION 3.01. Except as otherwise provided by this Act, this Act takes effect September 1, 2007.

Representative Puente moved to adopt the conference committee report on **HB 3**.

A record vote was requested.

The motion to adopt the conference committee report on **HB 3** prevailed by (Record 2007): 142 Yeas, 2 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hancock; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Truitt; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Nays — Christian; Hardcastle.

Present, not voting — Mr. Speaker; Turner(C).

Absent — Hamilton; Miles; Riddle; Thompson.

STATEMENT OF VOTE

When Record No. 2007 was taken, I was in the house but away from my desk. I would have voted yes.

Miles

HR 2915 - ADOPTED (by Corte)

Representative Corte moved to suspend Rule 8, Section 13 to take up and consider at this time **HR 2915**.

The motion prevailed.

The following privileged resolution was laid before the house:

HR 2915

BE IT RESOLVED by the House of Representatives of the State of Texas, 80th Legislature, Regular Session, 2007, That House Rule 13, Section 9(a), be suspended in part as provided by House Rule 13, Section 9(f), to enable the conference committee appointed to resolve the differences on **SB 11** (relating homeland security; providing penalties) to consider and take action on the following matter:

House Rule 13, Sections 9(a)(3) and (4), are suspended to permit the conference committee to add the following new article:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) consist of:

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

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

(C) any two of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

A record vote was requested.

HR 2915 was adopted by (Record 2008): 117 Yeas, 20 Nays, 2 Present, not voting.

Yeas — Anderson; Aycock; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Chavez; Chisum; Christian; Cohen; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Delisi; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Flynn; Gallego; Garcia; Gattis; Giddings; Gonzales; Goolsby; Guillen; Haggerty; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hefflin; Hernandez; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Lucio; Macias; Madden; Martinez; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Morrison; Mowery; Murphy; O'Day; Oliveira; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Truitt; Van Arsdale; Vaught; Vo; West; Woolley; Zedler; Zerwas.

Nays — Allen; Alonzo; Burnam; Castro; Coleman; Davis, Y.; Dunnam; Farias; Farrar; Gonzalez Toureilles; Herrero; Leibowitz; Martinez Fischer; Moreno; Naishtat; Olivo; Pierson; Rodriguez; Veasey; Villarreal.

Present, not voting — Mr. Speaker; Turner(C).

Absent — Anchia; Bailey; Bolton; Flores; Frost; Geren; Hamilton; Mallory Caraway; Miles; Noriega; Thompson.

STATEMENTS OF VOTE

When Record No. 2008 was taken, I was in the house but away from my desk. I would have voted yes.

Anchia

When Record No. 2008 was taken, I was in the house but away from my desk. I would have voted yes.

Bailey

When Record No. 2008 was taken, my vote failed to register. I would have voted yes.

Geren

When Record No. 2008 was taken, I was in the house but away from my desk. I would have voted no.

Miles

When Record No. 2008 was taken, I was in the house but away from my desk. I would have voted yes.

Noriega

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 2).

HR 2950 - ADOPTED (by Coleman)

Representative Farrar moved to suspend all necessary rules to take up and consider at this time **HR 2950**.

The motion prevailed.

The following resolution was laid before the house:

HR 2950, Honoring the Legislative Interns for their outstanding efforts and invaluable service.

HR 2950 was read and was adopted.

On motion of Representative Noriega, the names of all the members of the house were added to **HR 2950** as signers thereof.

HR 2951 - ADOPTED (by Coleman)

Representative Coleman moved to suspend all necessary rules to take up and consider at this time **HR 2951**.

The motion prevailed.

The following resolution was laid before the house:

HR 2951, Honoring the Texas Legislative Study Group Class of 2007 for their service to the Texas Legislature and the people of Texas.

HR 2951 was read and was adopted.

HR 2952 - ADOPTED (by Coleman)

Representative Coleman moved to suspend all necessary rules to take up and consider at this time **HR 2952**.

The motion prevailed.

The following resolution was laid before the house:

HR 2952, Honoring the Texas Legislative Fellowship Program Class of 2006-2007 for their service to the Texas Legislature and the people of Texas.

HR 2952 was read and was adopted.

HR 2903 - ADOPTED
(by Craddick and Orr)

Representative Orr moved to suspend all necessary rules to take up and consider at this time **HR 2903**.

The motion prevailed.

The following resolution was laid before the house:

HR 2903, Commending the Honorable Anna Mowery for her service in the Texas House of Representatives.

HR 2903 was read and was adopted.

On motion of Representatives Geren and C. Howard, the names of all the members of the house were added to **HR 2903** as signers thereof.

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 3).

HR 2893 - ADOPTED
(by Madden)

Representative Madden moved to suspend Rule 8, Section 13 to take up and consider at this time **HR 2893**.

The motion prevailed.

The following privileged resolution was laid before the house:

HR 2893

BE IT RESOLVED by the House of Representatives of the State of Texas, 80th Legislature, Regular Session, 2007, That House Rule 13, Section 9(a), be suspended in part as provided by House Rule 13, Section 9(f), to enable the conference committee appointed to resolve the differences on **SB 909** (the continuation and functions of the Texas Board of Criminal Justice, the Texas Department of Criminal Justice, and the Correctional Managed Health Care Committee, and to the functions of the Board of Pardons and Paroles) to consider and take action on the following matter:

House Rule 13, Sections 9(a)(3) and (4), are suspended to permit the committee to add the following appropriately numbered SECTION to the bill:

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

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

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

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

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

(3) an anticipated timeline for the relocation.

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

(Thompson now present)

A record vote was requested.

HR 2893 was adopted by (Record 2009): 144 Yeas, 1 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Taylor; Thompson; Truitt; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Nays — Jones.

Present, not voting — Mr. Speaker; Turner(C).

Absent — Dutton; Miles; Talton.

STATEMENT OF VOTE

When Record No. 2009 was taken, I was in the house but away from my desk. I would have voted yes.

Miles

BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER

Notice was given at this time that the speaker had signed bills and resolutions in the presence of the house (see the addendum to the daily journal, Signed by the Speaker, House List No. 51).

HR 2921 - ADOPTED
(by Puente)

Representative Puente moved to suspend Rule 8, Section 13 to take up and consider at this time **HR 2921**.

The motion prevailed.

The following privileged resolution was laid before the house:

HR 2921

BE IT RESOLVED by the House of Representatives of the State of Texas, 80th Legislature, Regular Session, 2007, That House Rule 13, Section 9(a), be suspended in part as provided by House Rule 13, Section 9(f), to enable the conference committee appointed to resolve the differences on **SB 3** (the development, management, and preservation of the water resources of the state; providing penalties) to consider and take action on the following matters:

(1) House Rule 13, Section 9(a)(2), is suspended to permit the committee to omit the following section of the bill:

SECTION 3.01. LEGISLATIVE FINDINGS. The legislature finds that:

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

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

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

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

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

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

(2) House Rule 13, Section 9(a)(1), is suspended to permit the committee to change, alter, or amend text pertaining to the designation of unique reservoir sites that is not in disagreement by substituting the following section:

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

(g-1) Notwithstanding any other provisions of law, a site is considered to be a designated site of unique value for the construction of a reservoir if the site is recommended for designation in the 2007 state water plan adopted by the board

and in effect on May 1, 2007. The designation of a unique reservoir site under this subsection terminates on September 1, 2015, unless there is an affirmative vote by a proposed project sponsor to make expenditures necessary in order to construct or file applications for permits required in connection with the construction of the reservoir under federal or state law.

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

A record vote was requested.

HR 2921 was adopted by (Record 2010): 99 Yeas, 36 Nays, 3 Present, not voting.

Yeas — Alonzo; Anchia; Aycock; Bailey; Bohac; Bonnen; Branch; Callegari; Castro; Chavez; Chisum; Cohen; Cook, B.; Cook, R.; Corte; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dutton; England; Escobar; Flores; Gallego; Garcia; Geren; Giddings; Gonzales; Goolsby; Guillen; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hill; Hochberg; Hodge; Howard, C.; Jackson; Keffer; King, P.; King, S.; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; Menendez; Miller; Moreno; Morrison; Mowery; Murphy; Noriega; O'Day; Orr; Ortiz; Parker; Patrick; Paxton; Peña; Phillips; Pierson; Pitts; Puente; Quintanilla; Smith, T.; Smith, W.; Smithee; Solomons; Straus; Swinford; Talton; Taylor; Truitt; Van Arsdale; Vaught; Veasey; Villarreal; West; Woolley; Zedler; Zerwas.

Nays — Allen; Berman; Brown, B.; Brown, F.; Burnam; Christian; Coleman; Dunnam; Eiland; Eissler; Elkins; Farabee; Farias; Farrar; Frost; Gattis; Haggerty; Hilderbran; Hopson; Howard, D.; Hughes; Isett; Jones; Kolkhorst; McReynolds; Merritt; Naishtat; Oliveira; Otto; Pickett; Raymond; Ritter; Rodriguez; Rose; Strama; Vo.

Present, not voting — Mr. Speaker; Homer; Turner(C).

Absent — Anderson; Bolton; Crabb; Flynn; Gonzalez Toureilles; Hamilton; Hancock; King, T.; Miles; Olivo; Riddle; Thompson.

STATEMENTS OF VOTE

When Record No. 2010 was taken, I was in the house but away from my desk. I would have voted no.

Flynn

When Record No. 2010 was taken, I was in the house but away from my desk. I would have voted yes.

Miles

(Miles now present)

SB 3 - MOTION TO SUSPEND RULES

Representative Puente moved to suspend all necessary rules to consider the conference committee report on **SB 3**.

Representative Phillips moved to extend speaking time on **SB 3**.

A record vote was requested.

The motion to extend time prevailed by (Record 2011): 88 Yeas, 39 Nays, 2 Present, not voting.

Yeas — Allen; Berman; Bolton; Branch; Brown, B.; Burnam; Cohen; Coleman; Cook, R.; Corte; Crabb; Davis, J.; Delisi; Deshotel; Dukes; Dunnam; Eiland; Eissler; Elkins; England; Escobar; Farrar; Flynn; Frost; Gallego; Garcia; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Hamilton; Harless; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Jones; Keffer; King, S.; King, T.; Kuempel; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McReynolds; Menendez; Merritt; Moreno; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Orr; Ortiz; Otto; Patrick; Peña; Phillips; Pickett; Pierson; Pitts; Raymond; Rodriguez; Rose; Smith, W.; Strama; Swinford; Talton; Vaught; Veasey; Villarreal; Vo; Zedler.

Nays — Alonzo; Anchia; Anderson; Aycock; Bailey; Bohac; Brown, F.; Christian; Cook, B.; Creighton; Crownover; Darby; Driver; Dutton; Farabee; Farias; Gattis; Hancock; Hardcastle; Hill; Hodge; Isett; Jackson; King, P.; Kolkhorst; Krusee; Latham; Laubenberg; Miles; Miller; Morrison; Paxton; Smith, T.; Smithee; Truitt; Van Arsdale; West; Woolley; Zerwas.

Present, not voting — Mr. Speaker; Turner(C).

Absent — Bonnen; Callegari; Castro; Chavez; Chisum; Davis, Y.; Flores; Geren; Haggerty; Harper-Brown; McClendon; Olivo; Parker; Puente; Quintanilla; Riddle; Ritter; Solomons; Straus; Taylor; Thompson.

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 4).

SB 3 - (consideration continued)

Representative Flores moved to extend speaking time on **SB 3**.

A record vote was requested.

The motion to extend time prevailed by (Record 2012): 93 Yeas, 35 Nays, 3 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Bailey; Berman; Bolton; Bonnen; Branch; Callegari; Castro; Cohen; Cook, R.; Crabb; Creighton; Davis, J.; Davis, Y.; Dukes; Dunnam; Dutton; Eiland; Eissler; England; Escobar; Farias; Farrar; Flores; Flynn; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Tourelles; Goolsby; Guillen; Haggerty; Hamilton; Harper-Brown; Hartnett; Hernandez; Hilderbran; Hill; Homer; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Krusee; Kuempel; Laubenberg; Leibowitz; Lucio; Macias; Madden; Martinez; Martinez Fischer; McCall; McClendon; Menendez; Miles; Moreno; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Paxton; Phillips; Pierson; Pitts; Quintanilla; Raymond; Rodriguez; Rose; Smith, T.; Solomons; Strama; Swinford; Talton; Thompson; Van Arsdale; Veasey; Zedler; Zerwas.

Nays — Aycock; Bohac; Brown, B.; Brown, F.; Burnam; Christian; Coleman; Cook, B.; Corte; Darby; Driver; Elkins; Farabee; Hancock; Hardcastle; Harless; Heflin; Herrero; Hochberg; Hodge; Hopson; Howard, D.; Isett; Kolkhorst; Latham; Mallory Caraway; McReynolds; Merritt; Miller; Pickett; Riddle; Smithee; Truitt; Vaught; West.

Present, not voting — Mr. Speaker; Taylor; Turner(C).

Absent — Chavez; Chisum; Crownover; Delisi; Deshotel; Frost; Gallego; Howard, C.; Hughes; Morrison; Patrick; Peña; Puente; Ritter; Smith, W.; Straus; Villarreal; Vo; Woolley.

STATEMENT OF VOTE

When Record No. 2012 was taken, I was temporarily out of the house chamber. I would have voted yes.

Gallego

A record vote was requested.

The vote of the house was taken on the motion to suspend all necessary rules to consider the conference committee report on **SB 3** and the vote was announced yeas 93, nays 43.

A verification of the vote was requested and was granted.

The roll of those voting yea and nay was again called and the verified vote resulted, as follows (Record 2013): 94 Yeas, 42 Nays, 6 Present, not voting.

Yeas — Alonzo; Anchia; Anderson; Aycock; Bailey; Bohac; Bonnen; Branch; Callegari; Castro; Chisum; Cook, B.; Cook, R.; Corte; Creighton; Crownover; Darby; Davis, Y.; Delisi; Driver; Dukes; Dutton; Eissler; Elkins; England; Escobar; Farias; Flores; Garcia; Geren; Giddings; Gonzales; Goolsby; Guillen; Hancock; Harless; Harper-Brown; Hartnett; Hernandez; Hill; Hochberg; Howard, C.; Jackson; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; Menendez; Miller; Moreno; Morrison; Mowery; Murphy; Orr; Ortiz; Parker; Patrick; Paxton; Peña; Phillips;

Pierson; Pitts; Puente; Quintanilla; Smith, T.; Smith, W.; Smithee; Solomons; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner(C); Van Arsdale; Vaught; Veasey; Villarreal; Woolley; Zedler.

Nays — Berman; Brown, B.; Brown, F.; Burnam; Christian; Cohen; Coleman; Davis, J.; Deshotel; Dunnam; Eiland; Farabee; Farrar; Flynn; Frost; Gattis; Haggerty; Hardcastle; Heflin; Herrero; Hodge; Hopson; Howard, D.; Hughes; Isett; Jones; Keffer; McReynolds; Merritt; Miles; Naishtat; Noriega; Oliveira; Olivo; Otto; Pickett; Raymond; Rodriguez; Rose; Strama; Vo; West.

Present, not voting — Mr. Speaker; Bolton; Gonzalez Toureilles; Hilderbran; Homer; O'Day.

Absent — Allen; Chavez; Crabb; Gallego; Hamilton; Riddle; Ritter; Zerwas.

STATEMENT OF VOTE

When Record No. 2013 was taken, I was temporarily out of the house chamber. I would have voted yes.

Gallego

The chair stated that the motion to suspend all necessary rules to consider the conference committee report on **SB 3** was lost by the above vote.

LEAVES OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of important business in the district:

Allen on motion of Leibowitz.

The following member was granted leave of absence temporarily for today because of illness:

Ritter on motion of Bonnen.

The following member was granted leave of absence temporarily for today because of family business:

Zerwas on motion of Murphy.

BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER

Notice was given at this time that the speaker had signed bills and resolutions in the presence of the house (see the addendum to the daily journal, Signed by the Speaker, Senate List No. 54).

SB 3 - VOTE RECONSIDERED

Representative Hodge moved to reconsider the vote by which the motion to suspend all necessary rules to consider the conference committee report on **SB 3** was lost.

A record vote was requested.

The motion to reconsider prevailed by (Record 2014): 94 Yeas, 33 Nays, 4 Present, not voting.

Yeas — Alonzo; Anchia; Anderson; Aycock; Bailey; Bohac; Bonnen; Callegari; Castro; Chisum; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Darby; Davis, Y.; Delisi; Driver; Dukes; Eissler; Elkins; England; Escobar; Farabee; Farias; Flores; Garcia; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Hancock; Harless; Harper-Brown; Hartnett; Hernandez; Hilderbran; Hill; Hochberg; Hodge; Howard, C.; Jackson; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McClendon; Menendez; Miller; Moreno; Morrison; Mowery; Murphy; Orr; Ortiz; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Smith, T.; Smith, W.; Smithee; Solomons; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Van Arsdale; Vaught; Veasey; Villarreal; West; Woolley; Zedler.

Nays — Berman; Brown, B.; Brown, F.; Cohen; Davis, J.; Deshotel; Dunnam; Farrar; Flynn; Frost; Gattis; Hamilton; Hardcastle; Heflin; Herrero; Hopson; Howard, D.; Hughes; Jones; Keffer; Kuempel; McReynolds; Merritt; Miles; Naishtat; Noriega; Olivo; Otto; Raymond; Rodriguez; Rose; Strama; Vo.

Present, not voting — Mr. Speaker; Homer; Oliveira; Turner(C).

Absent, Excused — Allen; Ritter; Zerwas.

Absent — Bolton; Branch; Burnam; Chavez; Christian; Coleman; Creighton; Dutton; Eiland; Gallego; Haggerty; Isett; McCall; O'Day; Pierson; Riddle.

SB 3 - RULES SUSPENDED

Representative Puente moved to suspend all necessary rules to consider the conference committee report on **SB 3**.

A record vote was requested.

The motion prevailed by (Record 2015): 97 Yeas, 38 Nays, 4 Present, not voting.

Yeas — Alonzo; Anchia; Anderson; Aycock; Bailey; Bohac; Bonnen; Branch; Callegari; Castro; Chisum; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, Y.; Delisi; Driver; Dukes; Dutton; Eissler; Elkins; England; Escobar; Farias; Flores; Garcia; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Hancock; Harless; Harper-Brown; Hartnett; Hernandez; Hill; Hochberg; Hodge; Howard, C.; Jackson; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; Menendez; Miller; Moreno; Morrison; Mowery; Murphy; Oliveira; Orr; Ortiz; Parker; Patrick; Paxton; Peña; Phillips; Pitts; Puente; Quintanilla; Smith, T.; Smith, W.; Smithee; Solomons; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Van Arsdale; Vaught; Veasey; Villarreal; West; Woolley; Zedler.

Nays — Berman; Brown, B.; Brown, F.; Burnam; Christian; Cohen; Coleman; Davis, J.; Deshotel; Dunnam; Eiland; Farabee; Farrar; Flynn; Frost; Gattis; Hamilton; Hardcastle; Heflin; Herrero; Hopson; Howard, D.; Hughes; Isett; Jones; Keffer; Merritt; Miles; Naishtat; Noriega; Olivo; Otto; Pickett; Raymond; Rodriguez; Rose; Strama; Vo.

Present, not voting — Mr. Speaker; Homer; Riddle; Turner(C).

Absent, Excused — Allen; Ritter; Zerwas.

Absent — Bolton; Chavez; Gallego; Haggerty; Hilderbran; McReynolds; O'Day; Pierson.

STATEMENT OF VOTE

When Record No. 2015 was taken, my vote failed to register. I would have voted present, not voting.

Hilderbran

(Zerwas now present)

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of family business:

Chavez on motion of Castro.

SB 406 - RULES SUSPENDED

Representative Hartnett moved to suspend all necessary rules to consider the conference committee report on **SB 406**.

The motion prevailed.

SB 406 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Hartnett submitted the conference committee report on **SB 406**.

Representative Hartnett moved to adopt the conference committee report on **SB 406**.

A record vote was requested.

The motion to adopt the conference committee report on **SB 406** prevailed by (Record 2016): 141 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.;

Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Miles; Miller; Moreno; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Talton; Taylor; Thompson; Truitt; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker; Turner(C).

Absent, Excused — Allen; Chavez; Ritter.

Absent — Crabb; Flores; Merritt; Swinford.

STATEMENT OF VOTE

When Record No. 2016 was taken, I was in the house but away from my desk. I would have voted yes.

Crabb

SB 11 - MOTION TO SUSPEND RULES

Representative Corte moved to suspend all necessary rules to consider the conference committee report on **SB 11**.

SB 11 - POINTS OF ORDER

Representative Herrero raised a point of order against further consideration of **SB 11** under Rule 11, Section 3 of the House Rules on the grounds that the conference committee report changes the original purpose of the bill.

The chair overruled the point of order, and had read the following statement:

Mr. Herrero raised a point of order against further consideration of the conference committee report on **SB 11** under Rule 11, Section 3 and Rule 8, Section 3 of the House Rules on the grounds that the conference committee report includes more than one subject and changes the original purpose of the bill.

SB 11, as introduced, is comprehensive legislation relating to public safety and security. Article 17 of the conference committee report authorizes certain local governments to restrict the sale and use of certain fireworks when a local state of disaster has been declared. Use of fireworks during a local disaster can reasonably be considered to create problems affecting public safety and security such as creating a safety hazard, complicating law enforcement efforts, or causing public panic. For that reason Article 17 of the conference committee report is within the subject of the bill and within the original purpose of the bill.

Accordingly, the point of order is respectfully overruled.

Representative Herrero raised a point of order against further consideration of **SB 11** under Rule 8, Section 3 of the House Rules on the grounds that the conference committee report violates the one subject rule.

The chair overruled the point of order.

HR 2623 - MOTION TO ADD NAMES

On motion of Representative Raymond, the names of all the members of the house were added to **HR 2623** as signers thereof.

SB 909 - RULES SUSPENDED

Representative Madden moved to suspend all necessary rules to consider the conference committee report on **SB 909**.

The motion prevailed.

SB 909 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Madden submitted the conference committee report on **SB 909**.

SB 909 - POINT OF ORDER

Representative Talton raised a point of order against further consideration of **SB 909** under Rule 8, Section 1 of the House Rules on the grounds that the caption does not give the legislature and the public reasonable notice of the subject of the proposed measure.

The chair overruled the point of order, and submitted the following statement:

Mr. Talton raised a point of order against further consideration of the conference committee report on **SB 909** under Rule 8, Section 1, of the House Rules on the grounds that the caption of the bill does not give the legislature and the public reasonable notice of the subject of the proposed measure.

Representative Talton argues that the inclusion of an amendment to community supervision law authorizing a defendant to make charitable donations in lieu of performing community service is not covered by the caption of the conference committee report, relating to the continuation and functions of the Texas Board of Criminal Justice, the Texas Department of Criminal Justice, and the Correctional Managed Health Care Committee, and to the functions of the Board of Pardons and Paroles. Multiple provisions relating to the system of community supervision are included in the conference committee report. For example, Section 6 of the conference committee report relates to the discretion of a judge to grant community supervision to certain defendants. Because the system of community supervision is intricately connected with the operation of the Texas Department of Criminal Justice, in that it provides an alternative to confinement in the Department of Criminal Justice, and in that the amendment cited by Representative Talton provides defendants with another means of complying with requirements of community supervision, the net effect of the amendment will lessen the prison population at the Texas Department of Criminal Justice, and accordingly relates to the functions of the Texas Department of Criminal Justice.

Accordingly, the point of order is respectfully overruled.

Representative Madden moved to adopt the conference committee report on **SB 909**.

A record vote was requested.

The motion to adopt the conference committee report on **SB 909** prevailed by (Record 2017): 144 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Moreno; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker; Turner(C).

Absent, Excused — Allen; Chavez; Ritter.

Absent — Dukes.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 2017. I intended to vote no.

Gattis

I was shown voting yes on Record No. 2017. I intended to vote no.

Geren

I was shown voting yes on Record No. 2017. I intended to vote no.

Phillips

HB 1168 - RULES SUSPENDED

Representative Menendez moved to suspend all necessary rules to consider the conference committee report on **HB 1168**.

The motion prevailed.

HB 1168 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Menendez submitted the following conference committee report on **HB 1168**:

Austin, Texas, May 26, 2007

The Honorable David Dewhurst
President of the Senate

The Honorable Tom Craddick
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 1168** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Shapleigh
Duncan
Nelson
Williams

Menendez
Kolkhorst
J. Davis
Pickett
Veasey

On the part of the senate

On the part of the house

HB 1168, A bill to be entitled An Act relating to licensing and regulation by a state agency.

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

SECTION 1. The heading to Chapter 2005, Government Code, is amended to read as follows:

CHAPTER 2005. MISCELLANEOUS PROVISIONS RELATING TO STATE
LICENSES AND PERMITS [~~PERMIT PROCESSING~~]

SECTION 2. Sections 2005.001 through 2005.007, Government Code, are designated as Subchapter A, Chapter 2005, Government Code, and a subchapter heading is added to read as follows:

SUBCHAPTER A. PERMIT PROCESSING

SECTION 3. Chapter 2005, Government Code, is amended by adding Subchapter B to read as follows:

SUBCHAPTER B. DENIAL, SUSPENSION, OR REVOCATION FOR FALSE
STATEMENT, MISREPRESENTATION, OR REFUSAL TO PROVIDE
INFORMATION

Sec. 2005.051. DEFINITIONS. In this subchapter:

(1) "License" means a license, certificate, registration, permit, or other authorization:

(A) that is issued by a licensing authority;

(B) that is subject before expiration to suspension, revocation, forfeiture, or termination by the issuing licensing authority; and

(C) that a person must obtain to:

(i) practice or engage in a particular business, occupation, or profession; or

(ii) engage in any other regulated activity, including hunting, fishing, or other recreational activity for which a license or permit is required.

(2) "Licensing authority" means an agency of the executive, legislative, or judicial branch of state government that issues a license.

Sec. 2005.052. DENIAL, SUSPENSION, OR REVOCATION FOR FALSE STATEMENT, MISREPRESENTATION, OR REFUSAL TO PROVIDE INFORMATION. (a) A licensing authority may deny a person's application for a license or suspend or revoke a person's license if the licensing authority determines, after notice and hearing, that the person knowingly:

(1) made a false statement in connection with applying for or renewing the license;

(2) made a material misrepresentation to the licensing authority in connection with applying for or renewing the license;

(3) refused to provide information requested by the licensing authority;

or

(4) failed to provide all of the person's criminal history information in response to the licensing authority's request for the information.

(b) A denial, suspension, or revocation by a licensing authority under this section is governed by the administrative procedures that apply to other disciplinary actions taken by the licensing authority.

Sec. 2005.053. CRIMINAL PROSECUTION. A person who knowingly makes a false statement in connection with applying for or renewing a license may be subject to criminal prosecution under Section 37.10, Penal Code.

SECTION 4. Section 2005.001, Government Code, is amended to read as follows:

Sec. 2005.001. DEFINITIONS. In this subchapter ~~[chapter]~~:

(1) "Permit" means an authorization by a license, certificate, registration, or other form that is required by law or state agency rules to engage in a particular business.

(2) "State agency" means a department, board, bureau, commission, division, office, council, or other agency of the state.

SECTION 5. Section 2005.002, Government Code, is amended to read as follows:

Sec. 2005.002. EXCEPTIONS. This subchapter ~~[chapter]~~ does not apply to a permit:

(1) for which an agency's median time during the preceding calendar year for processing a permit application from receipt of the initial application to the final permit decision did not exceed seven days;

(2) issued in connection with any form of gaming or gambling; or

(3) issued under the Alcoholic Beverage Code.

SECTION 6. Section 2005.005, Government Code, is amended to read as follows:

Sec. 2005.005. DUTY OF HEAD OF AGENCY. The head of each state agency shall ensure that the agency complies with this subchapter ~~[chapter]~~.

SECTION 7. Section 2005.006(a), Government Code, is amended to read as follows:

(a) A state agency subject to this subchapter ~~[chapter]~~ shall establish by rule a complaint procedure through which a permit applicant can:

(1) complain directly to the chief administrator of the agency if the agency exceeds the established period for processing permits; and

(2) request a timely resolution of any dispute arising from the delay.

SECTION 8. Section 2005.007(b), Government Code, is amended to read as follows:

(b) The report must include:

(1) a statement of the periods the agency has adopted under this subchapter ~~[chapter]~~ for processing each type of permit it issues, specifying any changes the agency made since the last report;

(2) a statement of the minimum, maximum, and median times for processing each type of permit during the period since the last report from the date the agency receives the initial permit application to the final permit decision;

(3) a description of the complaint procedure required by Section 2005.006;

(4) a summary of the number and disposition of complaints received by the agency under Section 2005.006 since the last report; and

(5) a description of specific actions taken by the agency since the last report to simplify and improve its permit application, processing, and paperwork requirements.

SECTION 9. Section 247.045, Health and Safety Code, is amended by amending Subsections (d) and (e) and adding Subsections (h) and (i) to read as follows:

(d) The attorney general may institute and conduct a suit to collect a penalty and fees under this section at the request of the department. If the attorney general fails to notify the department ~~[take action]~~ within 30 days of referral from the department that the attorney general will accept the case, the department shall refer the case to the local district attorney, county attorney, or city attorney. The district attorney, county attorney, or city attorney shall file suit in a district court to collect and retain the penalty.

(e) Investigation and attorney's fees may not be assessed or collected by or on behalf of the department or other state agency unless ~~[the department or other state agency assesses and collects]~~ a penalty described under this chapter is assessed.

(h) If a person who is liable under this section fails to pay any amount the person is obligated to pay under this section, the state may seek satisfaction from any owner, other controlling person, or affiliate of the person found liable. The owner, other controlling person, or affiliate may be found liable in the same suit or in another suit on a showing by the state that the amount to be paid has not been paid or otherwise legally discharged. The department by rule may establish a method for satisfying an obligation imposed under this section from an insurance policy, letter of credit, or other contingency fund.

(i) In this section, "affiliate" means:

(1) with respect to a partnership other than a limited partnership, each partner of the partnership;

(2) with respect to a corporation:

(A) an officer;

(B) a director;

(C) a stockholder who owns, holds, or has the power to vote at least 10 percent of any class of securities issued by the corporation, regardless of whether the power is of record or beneficial; and

(D) a controlling individual;

(3) with respect to an individual:

(A) each partnership and each partner in the partnership in which the individual or any other affiliate of the individual is a partner; and

(B) each corporation or other business entity in which the individual or another affiliate of the individual is:

(i) an officer;

(ii) a director;

(iii) a stockholder who owns, holds, or has the power to vote at least 10 percent of any class of securities issued by the corporation, regardless of whether the power is of record or beneficial; and

(iv) a controlling individual;

(4) with respect to a limited partnership:

(A) a general partner; and

(B) a limited partner who is a controlling individual;

(5) with respect to a limited liability company:

(A) an owner who is a manager as described by the Texas Limited Liability Company Act (Article 1528n, Vernon's Texas Civil Statutes); and

(B) each owner who is a controlling individual; and

(6) with respect to any other business entity, a controlling individual.

SECTION 10. (a) In this section:

(1) "Department" means the Department of Aging and Disability Services.

(2) "Disabled person" has the meaning assigned by Section 48.002, Human Resources Code.

(3) "Elderly person" has the meaning assigned by Section 48.002, Human Resources Code.

(4) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

(5) "Boarding house" means an establishment that:

(A) provides services, including community meals, light housework, meal preparation, transportation, grocery shopping, money management, or laundry services to three or more elderly persons or disabled persons residing in the boarding house who are unrelated to the owner or proprietor of the establishment;

(B) is not:

(i) required to be licensed under Chapter 142, 242, 246, 247, or 252, Health and Safety Code; or

(ii) exempt from licensing under Section 142.003(a)(19) or 247.004(4), Health and Safety Code; and

(C) is not a:

(i) child-care facility as defined by Section 42.002, Human Resources Code;

(ii) family violence center as defined by Section 51.002, Human Resources Code;

(iii) hotel as defined by Section 156.001, Tax Code;

(iv) retirement community;

(v) monastery or convent; or

(vi) sorority or fraternity house or other dormitory affiliated with an institution of higher education.

(b) Subject to the appropriation of funds for the express purpose of implementing the pilot program described by this section, the executive commissioner by rule shall develop and implement a pilot program in each county or municipality described by Subsection (d) of this section. The pilot program must:

(1) require boarding houses to be licensed and inspected; and

(2) enforce rules and regulations for licensed boarding houses.

(c) In implementing the pilot program, the executive commissioner shall adopt rules and regulations for boarding houses that include:

(1) minimum standards to ensure the health and safety of residents of boarding houses, including fire safety requirements;

(2) a requirement that a boarding house may not allow an individual required to register under Chapter 62, Code of Criminal Procedure, to reside in the boarding house;

(3) required disclosures by boarding houses;

(4) reporting requirements regarding resident deaths, injuries, or accidents; and

(5) administrative penalties for a boarding house of not less than \$100 or more than \$1,000 for each violation by a boarding house of a rule adopted or order issued under the pilot program.

(d) Subject to the appropriation of funds for the express purpose of implementing the pilot program described by this section, not later than August 1, 2008, the executive commissioner shall implement the pilot program in each county or municipality that has adopted an order or ordinance regulating the operation of boarding houses.

(e) Not later than January 1, 2009, the Health and Human Services Commission shall submit a report to the governor, the lieutenant governor, the speaker of the house of representatives, and the presiding officer of each house and senate standing committee having jurisdiction over adult protective services. The report must include:

(1) if the pilot program has been developed and implemented:

(A) the number of:

(i) boarding houses licensed through the pilot program;

(ii) violations by boarding houses of rules adopted under the pilot program; and

(iii) investigations of boarding houses licensed under the pilot program related to alleged abuse, neglect, or exploitation of a resident;

(B) a description of any penalties against a boarding house licensed under the pilot program resulting from a department investigation; and

(C) a recommendation regarding the advisability of expanding the pilot program statewide; or

(2) if the pilot program has not been developed and implemented, a study and recommendations regarding the most effective method for regulating boarding houses, including recommendations on whether clarifying the authority of and granting additional authority to counties and municipalities to establish health and safety standards for boarding houses is recommended.

(f) This section expires September 1, 2011.

SECTION 11. Subchapter B, Chapter 2005, Government Code, as added by this Act, applies only to a statement, misrepresentation, or refusal made, in connection with applying for or renewing a license, on or after the effective date of this Act.

SECTION 12. The change in law made to Section 247.045, Health and Safety Code, by this Act applies only to a violation that occurs on or after the effective date of this Act. A violation occurs before the effective date of this Act if any element of the violation occurs before that date. A violation that occurs before the effective date of this Act is covered by the law in effect when the violation occurred, and the former law is continued in effect for that purpose.

SECTION 13. This Act takes effect September 1, 2007.

Representative Menendez moved to adopt the conference committee report on **HB 1168**.

A record vote was requested.

The motion to adopt the conference committee report on **HB 1168** prevailed by (Record 2018): 143 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Moreno; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker; Turner(C).

Absent, Excused — Allen; Chavez; Ritter.

Absent — Creighton; Gallego.

STATEMENT OF VOTE

When Record No. 2018 was taken, I was temporarily out of the house chamber. I would have voted yes.

Gallego

HB 1521 - RULES SUSPENDED

Representative Kolkhorst moved to suspend all necessary rules to consider the conference committee report on **HB 1521**.

The motion prevailed.

HB 1521 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Kolkhorst submitted the following conference committee report on **HB 1521**:

Austin, Texas, May 26, 2007

The Honorable David Dewhurst
President of the Senate

The Honorable Tom Craddick
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 1521** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Hegar
Brimer
Carona
Nichols
Zaffirini

Kolkhorst
R. Cook
Crownover
Gattis
Hopson

On the part of the senate

On the part of the house

HB 1521, A bill to be entitled An Act relating to the prohibition of signs on certain roads.

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

SECTION 1. Section 391.252(a), Transportation Code, is amended to read as follows:

(a) A person may not erect an off-premise sign that is adjacent to and visible from:

(1) U.S. Highway 290 between the western city limits of the city of Austin and the eastern city limits of the city of Fredericksburg;

(2) State Highway 317 between the northern city limits of the city of Belton to the southern city limits of the city of Valley Mills;

(3) State Highway 16 between the northern city limits of the city of Kerrville and Interstate Highway 20;

(4) U.S. Highway 77 between State Highway 186 and State Highway 44;

(5) ~~U.S. Highway 281 between State Highway 186 and Interstate Highway 37, exclusive of the segment of U.S. Highway 281 located in the city limits of Three Rivers;~~

~~(5)~~ U.S. Highway 281 between:

(A) State Highway 186 and Interstate Highway 37, exclusive of the segment of U.S. Highway 281 located in the city limits of Three Rivers; and

(B) the southern boundary line of Comal County and State Highway 306;

(6) State Highway 17 between State Highway 118 and U.S. Highway 90;

(7) State Highway 67 between U.S. Highway 90 and Farm-to-Market Road 170;

(8) Farm-to-Market Road 170 between State Highway 67 and State Highway 118;

(9) State Highway 118 between Farm-to-Market Road 170 and State Highway 17;

(10) State Highway 105 between the western city limits of the city of Sour Lake to the eastern city limits of the city of Cleveland;

(11) State Highway 73 between the eastern city limits of the city of Winnie to the western city limits of the city of Port Arthur;

(12) State Highway 21 between the southern city limits of the city of College Station and U.S. Highway 290;

(13) a highway located in:

(A) the Sabine National Forest;

(B) the Davy Crockett National Forest; or

(C) the Sam Houston National Forest; ~~or~~

(14) Segments 1 through 4 of State Highway 130;[-]

(15) ~~(14)~~ a highway in Bandera County that is part of the state highway system;[-]

(16) ~~(14)~~ Farm-to-Market Road 3238 beginning at State Highway 71 and any extension of that road through Hays and Blanco Counties;[-]

(17) ~~(14)~~ Farm-to-Market Road 2978 between Farm-to-Market Road 1488 and the boundary line between Harris and Montgomery Counties;[-]

(18) U.S. ~~(14) State~~ Highway 90 between the western city limits of the city of San Antonio and the eastern city limits of the city of Hondo; or

(19) the following highways in Austin County:

(A) State Highway 159;

(B) Farm-to-Market Road 331;

(C) Farm-to-Market Road 529;

(D) Farm-to-Market Road 1094; and

(E) Farm-to-Market Road 2502.

SECTION 2. A landowner to whom notice is given as provided by Section 3(b) of this Act may exclude the landowner's property from the application of Section 391.252(a)(19), Transportation Code, as added by this Act by notifying

the Texas Department of Transportation in writing, by certified mail. In order for the landowner's property to be excluded from the application of Section 391.252(a)(19), Transportation Code, as added by this Act, the landowner's notice must be received by the Texas Department of Transportation within one year of the date the Texas Department of Transportation receives notification from all appropriate county clerks that notices were published as provided in Section 3(b) of this Act. The exclusion of the landowner from the application of Section 391.252(a)(19), Transportation Code, as added by this Act becomes effective on the date the landowner's notice is received by the Texas Department of Transportation.

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

(b) Before Section 391.252(a)(19), Transportation Code, as added by this Act can become effective, notice shall be published in a newspaper of general circulation in the county or counties in which a segment of public road affected by Section 391.252(a)(19), Transportation Code, as added by this Act is located. The notice shall identify the segment of public road affected by Section 391.252(a)(19), Transportation Code, as added by this Act and state that the landowner's future right to lease the landowner's property for the purpose of erecting an off-premise sign will be terminated unless the landowner notifies the Texas Department of Transportation that the landowner plans to exclude the landowner's property from the application of Section 391.252(a)(19), Transportation Code, as added by this Act. The notice must be published by the appropriate county clerk or clerks in accordance with this subsection within 45 days of the effective date of this Act. The appropriate county clerk or clerks shall notify the Texas Department of Transportation in writing, by certified mail, when the notice is published in accordance with this subsection. The notice provided to the Texas Department of Transportation by the county clerk is public information for the purposes of Chapter 552, Government Code, and must include the affidavit of the publisher of the newspaper notice indicating the date the notice was published, accompanied by a printed copy of the notice as published.

(c) Section 391.252(a)(19), Transportation Code, as added by this Act takes effect on the 91st day after the Texas Department of Transportation receives notification from all appropriate county clerks as provided in Subsection (b).

Representative Kolkhorst moved to adopt the conference committee report on **HB 1521**.

A record vote was requested.

The motion to adopt the conference committee report on **HB 1521** prevailed by (Record 2019): 143 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chisum; Christian; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crossover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles;

Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Moreno; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker; Turner(C).

Absent, Excused — Allen; Chavez; Ritter.

Absent — Cohen; Creighton.

HB 2094 - RULES SUSPENDED

Representative Hill moved to suspend all necessary rules to consider the conference committee report on **HB 2094**.

The motion prevailed.

HB 2094 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Hill submitted the following conference committee report on **HB 2094**:

Austin, Texas, May 26, 2007

The Honorable David Dewhurst
President of the Senate

The Honorable Tom Craddick
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 2094** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Carona

Hill

Ellis

Jackson

Whitmire

Krusee

On the part of the senate

On the part of the house

HB 2094, A bill to be entitled An Act relating to the regulation of the towing and storage of vehicles.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
ARTICLE 1. LICENSING AND REGULATION OF TOWING AND VEHICLE
STORAGE

SECTION 1.01. Sections 2303.002(2), (3), and (4), Occupations Code, are amended to read as follows:

(2) "Commission" means the Texas ~~[Transportation]~~ Commission of Licensing and Regulation.

(3) "Department" means the Texas Department of Licensing and Regulation ~~[Transportation]~~.

(4) "Executive director ~~[Director]~~" means the executive director of the department ~~[or a person designated by the executive director who is not below the rank of division or special office director]~~.

SECTION 1.02. Section 2303.051, Occupations Code, is amended to read as follows:

Sec. 2303.051. RULEMAKING: LICENSE REQUIREMENTS~~[-~~ SANCTIONS]. The commission shall adopt rules that:

(1) establish the requirements for a person to be licensed to operate a vehicle storage facility to ensure that the facility maintains adequate standards for the care of stored vehicles; ~~and~~

(2) relate to the administrative sanctions that may be imposed on a person licensed under this chapter;

(3) govern the administration of this chapter.

SECTION 1.03. Subchapter B, Chapter 2303, Occupations Code, is amended by adding Sections 2303.055, 2303.056, 2303.057, and 2303.058 to read as follows:

Sec. 2303.055. EXAMINATION OF CRIMINAL CONVICTION. The department may conduct an examination of any criminal conviction of an applicant, including by obtaining any criminal history record information permitted by law.

Sec. 2303.056. PERIODIC AND RISK-BASED INSPECTIONS. (a) The department may enter and inspect at any time during business hours:

(1) the place of business of any person regulated under this chapter; or

(2) any place in which the department has reasonable cause to believe that a license holder is in violation of this chapter or in violation of a rule or order of the commission or executive director.

(b) At least once every two years, the department shall inspect a vehicle storage facility that holds a license under this chapter.

(c) The department shall conduct additional inspections based on a schedule of risk-based inspections using the following criteria:

(1) the type and nature of the vehicle storage facility;

(2) the inspection history of the vehicle storage facility;

(3) any history of violations involving the vehicle storage facility; and

(4) any other factor determined by the commission by rule.

(d) The vehicle storage facility shall pay a fee for each risk-based inspection performed under Subsection (c). The commission by rule shall set the amount of the fee.

Sec. 2303.057. PERSONNEL. The department may employ personnel necessary to administer and enforce this chapter.

Sec. 2303.058. ADVISORY BOARD. The Towing and Storage Advisory Board under Chapter 2308 shall advise the commission in adopting vehicle storage rules under this chapter.

SECTION 1.04. The heading to Section 2303.101, Occupations Code, is amended to read as follows:

Sec. 2303.101. FACILITY LICENSE REQUIRED.

SECTION 1.05. Subchapter C, Chapter 2303, Occupations Code, is amended by adding Section 2303.1015 to read as follows:

Sec. 2303.1015. EMPLOYEE LICENSE REQUIRED. (a) A person may not work at a vehicle storage facility unless the person holds a license issued under this chapter.

(b) The commission shall adopt rules governing the application for and issuance of a license under this section.

SECTION 1.06. Sections 2303.102(a) and (b), Occupations Code, are amended to read as follows:

(a) The commission by rule shall determine the types of information to be included in an application for a license under this chapter on a form prescribed by the executive director.

(b) The rules adopted ~~[by the commission]~~ under this section must require an ~~[the]~~ application for a facility license ~~[to be made under oath and]~~ to list:

(1) the name and address of each partner, if the applicant is a partnership; and

(2) the name and address of the president, secretary, and treasurer of the corporation, if the applicant is a corporation ~~[and~~

~~[(3) each conviction of a felony, or of a misdemeanor punishable by confinement in jail or by a fine exceeding \$200, that was obtained against the applicant or a partner or officer of the applicant in the three years preceding the date of application].~~

SECTION 1.07. Section 2303.151(c), Occupations Code, is amended to read as follows:

(c) It is a defense to an action initiated by the department for a violation of this section that the operator of the facility unsuccessfully attempted in writing or electronically to obtain information from the governmental entity with which the vehicle is registered.

SECTION 1.08. Section 2303.155(b), Occupations Code, is amended to read as follows:

(b) The operator of a vehicle storage facility or governmental vehicle storage facility may charge the owner of a vehicle stored or parked at the facility:

(1) a notification fee set in a reasonable amount for providing notice under this subchapter, including notice under Section 2303.154(c);

(2) an impoundment fee of \$20 for any action that:

(A) is taken by or at the direction of the owner or operator of the facility; and

(B) is necessary to preserve, protect, or service a vehicle stored or parked at the facility;

(3) a daily storage fee of:

(A) not less than \$5 and not more than \$20 for each day or part of a day the vehicle is stored at the facility if the vehicle is not longer than 25 feet; or

(B) \$35 for each day or part of a day the vehicle is stored at the facility if the vehicle is longer than 25 feet; ~~and~~

(4) any fee that is required to be submitted to a law enforcement agency, the agency's authorized agent, or a governmental entity; and

(5) a fee in an amount set by the commission for the remediation, recovery, or capture of an environmental or biological hazard.

SECTION 1.09. Subchapter D, Chapter 2303, Occupations Code, is amended by adding Section 2303.160 to read as follows:

Sec. 2303.160. DRUG TESTING OF EMPLOYEES. (a) A license holder shall establish a drug testing policy for employees of the vehicle storage facility operated by the license holder. A license holder that establishes a drug testing policy under this subsection may adopt the model drug testing policy adopted by the commission or may use another drug testing policy that the department determines is at least as stringent as the policy adopted by the commission.

(b) The commission by rule shall adopt a model drug testing policy for use by license holders. The model drug testing policy must be designed to ensure the safety of the public through appropriate drug testing and to protect the rights of employees. The model drug testing policy must:

(1) require at least one scheduled drug test each year for each employee of a vehicle storage facility who has direct contact with the public; and

(2) authorize random, unannounced drug testing for employees described by Subdivision (1).

SECTION 1.10. Section 2303.302, Occupations Code, is amended to read as follows:

Sec. 2303.302. CRIMINAL PENALTIES. (a) A person commits an offense if the person:

(1) violates the licensing requirements of ~~[operates a vehicle storage facility for which a license has not been issued under]~~ this chapter; or

(2) employs an individual who does not hold an appropriate license required by ~~[violates a rule adopted by the commission under]~~ this chapter.

(b) An offense under this section is a Class C misdemeanor ~~[punishable by a fine of not less than \$200 and not more than \$500].~~

~~[(c) A person commits a separate offense for each day the person violates this section.]~~

SECTION 1.11. Subchapter G, Chapter 2303, Occupations Code, is amended by adding Sections 2303.304 and 2303.305 to read as follows:

Sec. 2303.304. ADMINISTRATIVE PENALTY. (a) The commission may impose an administrative penalty on a person under Subchapter F, Chapter 51, regardless of whether the person holds a registration, permit, or license under this chapter, if the person violates:

(1) this chapter or a rule adopted under this chapter; or

(2) a rule or order of the executive director or commission.

(b) An administrative penalty may not be imposed unless the person charged with a violation is provided the opportunity for a hearing.

Sec. 2303.305. CEASE AND DESIST ORDER; INJUNCTION; CIVIL PENALTY. (a) The executive director may issue a cease and desist order as necessary to enforce this chapter if the executive director determines that the action is necessary to prevent a violation of this chapter and to protect public health and safety.

(b) The attorney general or executive director may institute an action for an injunction or a civil penalty under this chapter as provided by Section 51.352.

SECTION 1.12. Subtitle A, Title 14, Occupations Code, is amended by adding Chapter 2308 to read as follows:

CHAPTER 2308. VEHICLE TOWING
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2308.001. SHORT TITLE. This chapter may be cited as the Texas Towing Act.

Sec. 2308.002. DEFINITIONS. In this chapter:

(1) "Advisory board" means the Towing and Storage Advisory Board.

(2) "Commission" means the Texas Commission of Licensing and Regulation.

(3) "Consent tow" means any tow of a motor vehicle initiated by the owner or operator of the vehicle or by a person who has possession, custody, or control of the vehicle. The term does not include a tow of a motor vehicle initiated by a peace officer investigating a traffic accident or a traffic incident that involves the vehicle.

(4) "Department" means the Texas Department of Licensing and Regulation.

(5) "Driver's license" has the meaning assigned by Section 521.001, Transportation Code.

(6) "Nonconsent tow" means any tow of a motor vehicle that is not a consent tow.

(7) "Parking facility" means public or private property used, wholly or partly, for restricted or paid vehicle parking. The term includes:

(A) a restricted space on a portion of an otherwise unrestricted parking facility; and

(B) a commercial parking lot, a parking garage, and a parking area serving or adjacent to a business, church, school, home, apartment complex, property governed by a property owners' association, or government-owned property leased to a private person, including:

(i) a portion of the right-of-way of a public roadway that is leased by a governmental entity to the parking facility owner; and

(ii) the area between the facility's property line abutting a county or municipal public roadway and the center line of the roadway's drainage way or the curb of the roadway, whichever is farther from the facility's property line.

(8) "Parking facility owner" means:

(A) an owner or operator of a parking facility, including a lessee, employee, or agent of an owner or operator;

(B) a property owners' association having control under a dedicatory instrument, as that term is defined in Section 202.001, Property Code, over assigned or unassigned parking areas; or

(C) a property owner having an exclusive right under a dedicatory instrument, as that term is defined in Section 202.001, Property Code, to use a parking space.

(9) "Property owners' association" has the meaning assigned by Section 202.001, Property Code.

(10) "Public roadway" means a public street, alley, road, right-of-way, or other public way, including paved and unpaved portions of the right-of-way.

(11) "Tow truck" means a motor vehicle, including a wrecker, equipped with a mechanical device used to tow, winch, or otherwise move another motor vehicle.

(12) "Towing company" means an individual, association, corporation, or other legal entity that controls, operates, or directs the operation of one or more tow trucks over a public roadway in this state but does not include a political subdivision of the state.

(13) "Unauthorized vehicle" means a vehicle parked, stored, or located on a parking facility without the consent of the parking facility owner.

(14) "Vehicle" means a device in, on, or by which a person or property may be transported on a public roadway. The term includes an operable or inoperable automobile, truck, motorcycle, recreational vehicle, or trailer but does not include a device moved by human power or used exclusively on a stationary rail or track.

(15) "Vehicle owner" means a person:

(A) named as the purchaser or transferee in the certificate of title issued for the vehicle under Chapter 501, Transportation Code;

(B) in whose name the vehicle is registered under Chapter 502, Transportation Code, or a member of the person's immediate family;

(C) who holds the vehicle through a lease agreement;

(D) who is an unrecorded lienholder entitled to possess the vehicle under the terms of a chattel mortgage; or

(E) who is a lienholder holding an affidavit of repossession and entitled to repossess the vehicle.

(16) "Vehicle storage facility" means a vehicle storage facility, as defined by Section 2303.002, that is operated by a person who holds a license issued under Chapter 2303 to operate the facility.

Sec. 2308.003. STUDY OF NONCONSENT TOWING FEES. (a) The department shall study the fees charged by license and permit holders for nonconsent tows, compliance of license and permit holders with local regulations governing towing fees, and consumer complaints related to fees for nonconsent tows. Not later than January 1, 2009, the department shall report to the legislature the findings of the study, including any recommendations for state regulation of towing fees.

(b) This section expires September 1, 2009.

[Sections 2308.004-2308.050 reserved for expansion]

SUBCHAPTER B. ADVISORY BOARD

Sec. 2308.051. TOWING AND STORAGE ADVISORY BOARD. (a)

The advisory board consists of the following members appointed by the presiding officer of the commission with the approval of the commission:

(1) one representative of a towing company operating in a county with a population of less than one million;

(2) one representative of a towing company operating in a county with a population of one million or more;

(3) one owner of a vehicle storage facility located in a county with a population of less than one million;

(4) one owner of a vehicle storage facility located in a county with a population of one million or more;

(5) one parking facility owner;

(6) one law enforcement officer from a county with a population of less than one million;

(7) one law enforcement officer from a county with a population of one million or more; and

(8) one representative of property and casualty insurers who write automobile insurance in this state.

(b) The advisory board must include representation for each classification of towing.

(c) An appointment to the advisory board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

Sec. 2308.052. TERMS; VACANCIES. (a) Advisory board members serve terms of six years, with the terms of two or three members, as appropriate, expiring on February 1 of each odd-numbered year.

(b) A member may not serve more than two full consecutive terms.

(c) If a vacancy occurs during a term, the presiding officer of the commission shall appoint a replacement who meets the qualifications of the vacated position to serve for the remainder of the term.

Sec. 2308.053. PRESIDING OFFICER. The presiding officer of the commission shall appoint one of the advisory board members to serve as presiding officer of the advisory board for a term of one year. The presiding officer of the advisory board may vote on any matter before the advisory board.

Sec. 2308.054. COMPENSATION; REIMBURSEMENT OF EXPENSES. Advisory board members may not receive compensation but are entitled to reimbursement for actual and necessary expenses incurred in performing the functions of the advisory board, subject to the General Appropriations Act.

Sec. 2308.055. MEETINGS. The advisory board shall meet twice annually and may meet at other times at the call of the presiding officer of the commission or the executive director.

Sec. 2308.056. GENERAL POWERS AND DUTIES. The executive director or commission, as appropriate, may take action as necessary to administer and enforce this chapter.

Sec. 2308.057. RULES. (a) The commission shall adopt rules for permitting tow trucks and licensing towing operators and towing companies.

(b) The commission by rule shall adopt standards of conduct for license and permit holders under this chapter.

Sec. 2308.058. FEES. The commission shall establish and collect reasonable and necessary fees in amounts sufficient to cover the costs of administering this chapter.

Sec. 2308.059. PERIODIC AND RISK-BASED INSPECTIONS. (a) The department may enter and inspect at any time during business hours:

(1) the place of business of any person regulated under this chapter; or

(2) any place in which the department has reasonable cause to believe that a license or permit holder is in violation of this chapter or in violation of a rule or order of the commission or executive director.

(b) The department shall conduct additional inspections based on a schedule of risk-based inspections using the following criteria:

(1) the type and nature of the towing company or operator;

(2) the inspection history;

(3) any history of complaints involving the towing company or operator; and

(4) any other factor determined by the commission by rule.

(c) The towing company shall pay a fee for each risk-based inspection performed under this section. The commission by rule shall set the amount of the fee.

(d) In conducting an inspection under this section, the department may inspect a vehicle, a facility, business records, or any other place or thing reasonably required to enforce this chapter or a rule or order adopted under this chapter.

Sec. 2308.060. POWERS AND DUTIES OF ADVISORY BOARD. The advisory board shall provide advice and recommendations to the department on technical matters relevant to the administration and enforcement of this chapter, including examination content, licensing standards, and continuing education requirements.

Sec. 2308.061. PERSONNEL. The department may employ personnel necessary to administer and enforce this chapter.

[Sections 2308.062-2308.100 reserved for expansion]

SUBCHAPTER C. TOW TRUCK PERMIT REQUIREMENTS

Sec. 2308.101. PERMIT REQUIRED. A tow truck may not be used for consent towing or nonconsent towing on a public roadway in this state unless an appropriate permit has been issued for the tow truck under this subchapter. Each tow truck requires a separate permit.

Sec. 2308.102. APPLICATION REQUIREMENTS. (a) An applicant for a permit under this subchapter must submit to the department:

(1) a completed application on a form prescribed by the executive director;

(2) evidence of insurance or financial responsibility required under this subchapter;

(3) the required fees; and

(4) any other information required by the executive director.

(b) The department may conduct an examination of any criminal conviction of an applicant, including by obtaining any criminal history record information permitted by law.

Sec. 2308.103. REQUIREMENTS FOR INCIDENT MANAGEMENT TOWING PERMIT. (a) An incident management towing permit is required for a tow truck used to perform any nonconsent tow initiated by a peace officer, including a tow authorized under Section 545.3051, Transportation Code.

(b) To be eligible for an incident management towing permit, an applicant must submit evidence that:

(1) the tow truck is equipped to tow light-duty or heavy-duty vehicles according to the manufacturer's towing guidelines;

(2) the applicant has at least \$500,000 of liability insurance for the tow truck; and

(3) the applicant has at least \$50,000 of cargo insurance for the tow truck.

(c) A tow truck permitted under this section may also be used for private property towing and consent towing.

(d) When a tow truck is used for a nonconsent tow initiated by a peace officer under Section 545.3051, Transportation Code, the permit holder is an agent of law enforcement and is subject to Section 545.3051(e), Transportation Code.

Sec. 2308.104. REQUIREMENTS FOR PRIVATE PROPERTY TOWING PERMIT. (a) A private property towing permit is required for a tow truck used to perform a nonconsent tow authorized by a parking facility owner under this chapter.

(b) To be eligible for a private property towing permit, an applicant must submit evidence that:

(1) the tow truck is equipped to tow light-duty or heavy-duty vehicles according to the manufacturer's towing guidelines;

(2) the applicant has at least \$300,000 of liability insurance for the tow truck; and

(3) the applicant has at least \$50,000 of cargo insurance for the tow truck.

(c) A tow truck permitted under this section may also be used for consent towing but not for incident management towing.

Sec. 2308.105. REQUIREMENTS FOR CONSENT TOWING PERMIT. (a) A consent towing permit is required for a tow truck used to perform a consent tow authorized by the vehicle owner.

(b) To be eligible for a consent towing permit, an applicant must submit evidence that:

(1) the tow truck is equipped to tow light-duty or heavy-duty vehicles according to the manufacturer's towing guidelines; and

(2) the applicant has at least \$300,000 of liability insurance for the tow truck.

(c) A tow truck permitted under this section may not be used for nonconsent towing, including incident management towing and private property towing.

Sec. 2308.106. DEPARTMENT APPROVAL; ISSUANCE OF PERMIT.

(a) The department shall issue a permit under this subchapter to an applicant who meets the requirements for a permit. The department may deny an application if the applicant has had a permit revoked under this chapter.

(b) The department shall issue a certificate containing a single unique permit number for each tow truck, regardless of whether the permit holder holds more than one permit.

Sec. 2308.107. PERMIT RENEWAL. (a) A permit issued under this chapter is valid for one year. The department may adopt a system under which permits expire at different times during the year.

(b) The department shall notify the permit holder at least 30 days before the date a permit expires. The notice must be in writing and sent to the permit holder's last known address according to the records of the department.

(c) A permit holder may renew a permit under this chapter by:

(1) paying a fee for each tow truck; and

(2) providing to the department evidence of continuing insurance or financial responsibility in an amount required by this chapter.

Sec. 2308.108. CAB CARDS. (a) The department shall issue a cab card for each tow truck issued a permit. The cab card must:

(1) show the permit number of the certificate issued under Section 2308.106(b);

(2) show the type of permit issued;

(3) show the vehicle unit number;

(4) show the vehicle identification number; and

(5) contain a statement that the vehicle has been issued a permit under this subchapter.

(b) The department shall issue a cab card when the department issues or renews a permit under this subchapter.

(c) A permit holder must keep the cab card in the cab of each permitted tow truck.

(d) The department may order a permit holder to surrender a cab card if the permit is suspended or revoked under this chapter.

(e) If the department determines that the cab card system described by Subsections (a) through (c) is not an efficient means of enforcing this subchapter, the executive director by rule may adopt an alternative method that is accessible by law enforcement personnel in the field and provides for the enforcement of the permit requirements of this subchapter.

(f) A cab card or a permit issued under the alternative method described in Subsection (e) must be valid for the same duration as a certificate issued under Section 2308.106.

Sec. 2308.109. DISPLAY OF INFORMATION ON TOW TRUCK. (a) A permit holder shall display on each permitted tow truck:

(1) the permit holder's name;

- (2) the permit holder's telephone number;
- (3) the city and state where the permit holder is located; and
- (4) the permit number for the tow truck.

(b) The information required to be displayed must be:

- (1) printed in letters and numbers that are at least two inches high and in a color that contrasts with the color of the background surface; and
- (2) permanently affixed in conspicuous places on both sides of the tow truck.

Sec. 2308.110. FINANCIAL RESPONSIBILITY. (a) A permit holder shall maintain liability insurance for each tow truck according to the requirements under this subchapter.

(b) Unless state law permits a tow truck to be self-insured, any insurance required for a tow truck must be obtained from an insurer authorized to do business in this state.

(c) An applicant or permit holder must file with the department evidence of insurance as required by this subchapter.

(d) A permit holder shall keep evidence of insurance in a form approved by the department in the cab of each permitted tow truck.

[Sections 2308.111-2308.150 reserved for expansion]

SUBCHAPTER D. LICENSE REQUIREMENTS

Sec. 2308.151. LICENSE REQUIRED. Unless the person holds an appropriate license under this subchapter, a person may not:

- (1) perform towing operations; or
- (2) operate a towing company.

Sec. 2308.152. GENERAL LICENSE APPLICATION REQUIREMENTS. An applicant for a license under this subchapter must submit to the department:

- (1) a completed application on a form prescribed by the executive director;
- (2) the required fees; and
- (3) any other information required by commission rule.

Sec. 2308.153. INCIDENT MANAGEMENT TOWING OPERATOR'S LICENSE. (a) An incident management towing operator's license is required to operate a tow truck permitted under Section 2308.103.

(b) An applicant for an incident management towing operator's license must:

- (1) be a licensed Texas driver; and
- (2) be certified by the National Drivers Certification Program of the Towing and Recovery Association of America or another certification program approved by the department.

Sec. 2308.154. PRIVATE PROPERTY TOWING OPERATOR'S LICENSE. (a) A private property towing operator's license is required to operate a tow truck permitted under Section 2308.104.

(b) An applicant for a private property towing operator's license must:

- (1) be a licensed Texas driver; and

(2) be certified by the National Drivers Certification Program of the Towing and Recovery Association of America or another certification program approved by the department.

Sec. 2308.155. CONSENT TOWING OPERATOR'S LICENSE. (a) A consent towing operator's license is required to operate a tow truck permitted under Section 2308.105.

(b) An applicant for a consent towing operator's license must be a licensed Texas driver.

Sec. 2308.156. NONTRANSFERABILITY OF LICENSE. A license issued by the executive director is valid throughout this state and is not transferable.

Sec. 2308.157. CONTINUING EDUCATION. (a) The commission by rule shall recognize, prepare, or administer continuing education programs for license holders. Except as provided by Subsection (c), each license holder must complete a continuing education program before the license holder may renew the license holder's license.

(b) A person recognized by the commission to offer a continuing education program must:

(1) register with the department; and

(2) comply with rules adopted by the commission relating to continuing education.

(c) To renew an incident management towing operator's license the first time, a license holder must complete a professional development course relating to towing that is licensed or certified by the National Safety Council or another course approved and administered by the department under this section.

Sec. 2308.158. DRUG TESTING OF TOWING OPERATORS. (a) A towing company shall establish a drug testing policy for towing operators. A towing company that establishes a drug testing policy under this subsection may adopt the model drug testing policy adopted by the commission or may use another drug testing policy that the department determines is at least as stringent as the policy adopted by the commission.

(b) The commission by rule shall adopt a model drug testing policy for use by a towing company. The model drug testing policy must be designed to ensure the safety of the public through appropriate drug testing and to protect the rights of employees. The model drug testing policy must:

(1) require at least one scheduled drug test each year for each towing operator; and

(2) authorize random, unannounced drug testing for towing operators.

Sec. 2308.159. LICENSE RENEWAL. (a) A license issued under this subchapter is valid for one year. The department may adopt a system under which licenses expire at different times during the year.

(b) The department shall notify the license holder at least 30 days before the date a license expires. The notice must be in writing and sent to the license holder's last known address according to the records of the department.

(c) A license holder may renew a license issued under this chapter by:

(1) paying a renewal fee; and

(2) completing continuing education as required by Section 2308.157.

ARTICLE 2. CONSOLIDATION OF LAWS RELATED TO TOWING

SECTION 2.01. Sections 643.201 and 643.203 through 643.208, Transportation Code, are transferred to Chapter 2308, Occupations Code, designated as Subchapter E, Chapter 2308, Occupations Code, renumbered as Sections 2308.201 through 2308.207, Occupations Code, and amended to read as follows:

SUBCHAPTER E. LOCAL REGULATION OF TOWING

Sec. ~~2308.201~~ ~~[643.201]~~. TOW TRUCK REGULATION BY POLITICAL SUBDIVISIONS. (a) A ~~[In addition to the registration requirements of Subchapter B, a]~~ political subdivision of this state may regulate the operation of a tow truck to the extent allowed by federal law, except that a political subdivision may not issue a more restrictive regulation for the use of lighting equipment on a tow truck than is imposed by Title 7, Transportation Code ~~[this title]~~.

(b) A political subdivision may not require the registration of a tow truck that performs consent tows in the political subdivision unless the owner of the tow truck has a place of business in the territory of the political subdivision.

(c) A political subdivision may require the registration of a tow truck that performs a nonconsent tow in the political subdivision, regardless of whether the owner of the tow truck has a place of business in the territory of the political subdivision.

(d) A political subdivision may not require a person who holds a driver's license or commercial driver's license to obtain a license or permit for operating a tow truck unless the person performs nonconsent tows in the territory of the political subdivision. A fee charged for a license or permit may not exceed \$15.

~~[(e) In this section:~~

~~[(1) "Commercial driver's license" has the meaning assigned by Section 522.003.~~

~~[(2) "Consent tow" means any tow of a motor vehicle initiated by the owner or operator of the vehicle or by a person who has possession, custody, or control of the vehicle. The term does not include a tow of a motor vehicle initiated by a peace officer investigating a traffic accident or a traffic incident that involves the vehicle.~~

~~[(3) "Driver's license" has the meaning assigned by Section 521.001.~~

~~[(4) "Nonconsent tow" means any tow of a motor vehicle that is not a consent tow.]~~

Sec. 2308.202 ~~[643.203]~~. REGULATION BY POLITICAL SUBDIVISIONS OF FEES FOR NONCONSENT TOWS. The governing body of a political subdivision may regulate the fees that may be charged or collected in connection with a nonconsent tow originating in the territory of the political subdivision.

Sec. 2308.203 ~~[643.204]~~. TOWING FEE STUDIES. (a) The governing body of a political subdivision that regulates nonconsent tow fees shall establish procedures by which a towing company may request that a towing fee study be performed.

(b) The governing body of the political subdivision shall establish or amend the allowable fees for nonconsent tows at amounts that represent the fair value of the services of a towing company and are reasonably related to any financial or accounting information provided to the governing body.

Sec. 2308.204 ~~[643.205]~~. FEES FOR NONCONSENT TOWS IN OTHER AREAS. (a) In an area in which no political subdivision regulates the fees that may be charged or collected for a nonconsent tow from private property, a towing company may charge and collect a fee for the tow of a motor vehicle from private property in an amount not to exceed an amount equal to 150 percent of the fee that the towing company would have been authorized to charge for a nonconsent tow made at the request of a peace officer of the political subdivision in which the private property is located.

(b) A towing company may charge and collect a fee for the tow of a vehicle, with a gross vehicle weight rating in excess of 26,000 pounds, from private property in an amount not to exceed an amount equal to 125 percent of the fee that the towing company would have been authorized to charge for a nonconsent tow made at the request of a peace officer of the political subdivision in which the private property is located.

Sec. 2308.205 ~~[643.206]~~. STORAGE OF TOWED VEHICLES. (a) A towing company that makes a nonconsent tow shall tow the vehicle to a vehicle storage facility that is operated by a person who holds a license to operate the facility under Chapter 2303, ~~[Occupations Code,]~~ unless the towing company agrees to take the vehicle to a location designated by the vehicle's owner.

(b) A storage or notification fee imposed in connection with a motor vehicle towed to a vehicle storage facility is governed by Chapter 2303~~[Occupations Code]~~.

(c) Except as provided by this chapter, Article 18.23, Code of Criminal Procedure, or Chapter 2303~~[Occupations Code]~~, a fee may not be charged or collected without the prior written consent of the vehicle owner or operator.

Sec. 2308.206 ~~[643.207]~~. REQUIRED FILING. (a) Before January 31 of each year, a towing company shall file with the department a schedule showing each towing fee that the towing company charges or collects in connection with a nonconsent tow.

(b) If a political subdivision begins regulating nonconsent tow fees, the fees shall be reported to the department by the towing company before the 30th day after the regulation goes into effect.

(c) Any changes in nonconsent tow fees regulated by a political subdivision shall be reported to the department by the towing company before the 30th day after the effective date of the change.

(d) The department shall make towing fee schedules available on the department's Internet website. The department shall make no determination as to the reasonableness of a towing fee schedule.

(e) A license or permit holder may not charge a fee for a nonconsent tow that is greater than the fee listed in the schedule most recently submitted to the department under this section.

Sec. 2308.207 ~~[643.208]~~. REQUIRED POSTING. (a) All ~~[towing and]~~ storage fees shall be posted at the licensed vehicle storage facility to which the motor vehicle has been delivered and shall be posted in view of the person who claims the vehicle.

(b) A vehicle storage facility accepting a nonconsent towed vehicle shall post a sign in one inch letters stating "Nonconsent tow fees schedules available on request." The vehicle storage facility shall provide a copy of a nonconsent towing fees schedule on request.

SECTION 2.02. Section 684.101, Transportation Code, is transferred to Subchapter E, Chapter 2308, Occupations Code, and renumbered as Section 2308.208, Occupations Code, to read as follows:

Sec. 2308.208 ~~[684.101]~~. MUNICIPAL ORDINANCE REGULATING UNAUTHORIZED VEHICLES. A municipality may adopt an ordinance that is identical to this chapter or that imposes additional requirements that exceed the minimum standards of this chapter but may not adopt an ordinance conflicting with this chapter.

SECTION 2.03. Sections 684.011, 684.012, 684.0125, 684.013, 684.014, and 684.015, Transportation Code, are transferred to Chapter 2308, Occupations Code, designated as Subchapter F, Chapter 2308, Transportation Code, renumbered as Sections 2308.251 through 2308.256, Occupations Code, and amended to read as follows:

SUBCHAPTER F. UNAUTHORIZED VEHICLES

Sec. 2308.251 ~~[684.011]~~. PROHIBITION AGAINST UNATTENDED VEHICLES IN CERTAIN AREAS. (a) The owner or operator of a vehicle may not leave unattended on a parking facility a vehicle that:

(1) is in or obstructs a vehicular traffic aisle, entry, or exit of the parking facility;

(2) prevents a vehicle from exiting a parking space in the facility;

(3) is in or obstructs a fire lane marked according to Subsection (c); or

(4) does not display the special license plates issued under Section 504.201, Transportation Code, or the disabled parking placard issued under Chapter 681, Transportation Code, for a vehicle transporting a disabled person and is in a parking space that is designated for the exclusive use of a vehicle transporting a disabled person.

(b) Subsection (a) does not apply to an emergency vehicle that is owned by, or the operation of which is authorized by, a governmental entity.

(c) If a government regulation governing the marking of a fire lane applies to a parking facility, a fire lane in the facility must be marked as provided by the regulation. If a government regulation on the marking of a fire lane does not apply to the parking facility, all curbs of fire lanes must be painted red and be conspicuously and legibly marked with the warning "FIRE LANE—TOW AWAY ZONE" in white letters at least three inches tall, at intervals not exceeding 50 feet.

Sec. 2308.252 ~~[684.012]~~. REMOVAL AND STORAGE OF UNAUTHORIZED VEHICLE. (a) A parking facility owner may, without the consent of the owner or operator of an unauthorized vehicle, cause the vehicle and any property on or in the vehicle to be removed and stored at a vehicle storage facility at the vehicle owner's or operator's expense if:

(1) signs that comply with Subchapter G ~~[C]~~ prohibiting unauthorized vehicles are located on the parking facility at the time of towing and for the preceding 24 hours and remain installed at the time of towing;

(2) the owner or operator of the vehicle has received actual notice from the parking facility owner that the vehicle will be towed at the vehicle owner's or operator's expense if it is in or not removed from an unauthorized space;

(3) the parking facility owner gives notice to the owner or operator of the vehicle under Subsection (b); or

(4) the vehicle is:

(A) left in violation of Section 2308.251 ~~[684.011]~~ or 2308.253 ~~[684.0125]~~; or

(B) in or obstructing a portion of a paved driveway or abutting public roadway used for entering or exiting the facility ~~[and the removal is approved by a peace officer]~~.

(b) A parking facility owner is considered to have given notice under Subsection (a)(3) if:

(1) a conspicuous notice has been attached to the vehicle's front windshield or, if the vehicle has no front windshield, to a conspicuous part of the vehicle stating:

(A) that the vehicle is in a parking space in which the vehicle is not authorized to be parked;

(B) a description of all other unauthorized areas in the parking facility;

(C) that the vehicle will be towed at the expense of the owner or operator of the vehicle if it remains in an unauthorized area of the parking facility; and

(D) a telephone number that is answered 24 hours a day to enable the owner or operator of the vehicle to locate the vehicle; and

(2) a notice is mailed after the notice is attached to the vehicle as provided by Subdivision (1) to the owner of the vehicle by certified mail, return receipt requested, to the last address shown for the owner according to the vehicle registration records of the Texas Department of Transportation, or if the vehicle is registered in another state, the appropriate agency of that state.

(c) The notice under Subsection (b)(2) must:

(1) state that the vehicle is in a space in which the vehicle is not authorized to park;

(2) describe all other unauthorized areas in the parking facility;

(3) contain a warning that the unauthorized vehicle will be towed at the expense of the owner or operator of the vehicle if it is not removed from the parking facility before the 15th day after the postmark date of the notice; and

(4) state a telephone number that is answered 24 hours a day to enable the owner or operator to locate the vehicle.

(d) The mailing of a notice under Subsection (b)(2) is not required if after the notice is attached under Subsection (b)(1) the owner or operator of the vehicle leaves the vehicle in another location where parking is unauthorized for the vehicle according to the notice.

Sec. 2308.253 ~~[684.0125]~~. UNATTENDED VEHICLES ON PARKING FACILITY OF APARTMENT COMPLEX; REMOVAL AND STORAGE OF VEHICLES. (a) This section applies only to a parking facility serving or adjacent to an apartment complex consisting of one or more residential apartment units and any adjacent real property serving the apartment complex.

(b) The owner or operator of a vehicle may not leave unattended on a parking facility a vehicle that:

(1) obstructs a gate that is designed or intended for the use of pedestrians or vehicles;

(2) obstructs pedestrian or vehicular access to an area that is used for the placement of a garbage or refuse receptacle used in common by residents of the apartment complex;

(3) is in or obstructs a restricted parking area or parking space designated under Subchapter G ~~[E]~~, including a space designated for the use of employees or maintenance personnel of the parking facility or apartment complex;

(4) is in a tow away zone, other than a fire lane covered by Section 2308.251(c) ~~[684.011(e)]~~, that is brightly painted and is conspicuously and legibly marked with the warning "TOW AWAY ZONE" in contrasting letters at least three inches tall;

(5) is a semitrailer, trailer, or truck-tractor, as defined by Chapter 502, Transportation Code, unless the owner or operator of the vehicle is permitted under the terms of a rental or lease agreement with the apartment complex to leave the unattended vehicle on the parking facility; or

(6) is leaking a fluid that presents a hazard or threat to persons or property.

(c) A parking facility owner may not have an emergency vehicle described by Section 2308.251(b) ~~[684.011(b)]~~ removed from the parking facility.

(d) Except as provided by a contract described by Subsection (e), a parking facility owner may not have a vehicle removed from the parking facility merely because the vehicle does not display:

(1) an unexpired license plate or registration insignia issued for the vehicle under Chapter 502, Transportation Code, or the vehicle registration law of another state or country; or

(2) a valid vehicle inspection certificate issued under Chapter 548, Transportation Code, or the vehicle inspection law of another state or country.

(e) A contract provision providing for the removal from a parking facility of a vehicle that does not display an unexpired license plate or registration insignia or a valid inspection certificate is valid only if the provision requires the owner or

operator of the vehicle to be given at least 10 days' written notice that the vehicle will be towed from the facility at the vehicle owner's or operator's expense if it is not removed from the parking facility. The notice must be:

- (1) delivered in person to the owner or operator of the vehicle; or
- (2) sent by certified mail, return receipt requested, to that owner or operator.

(f) This section may not be construed:

(1) to authorize the owner or operator of a vehicle to leave an unattended vehicle on property that is not designed or intended for the parking of vehicles; or

(2) to limit or restrict the enforcement of Chapter 683, Transportation Code, the abandoned motor vehicle law.

(g) A provision of an apartment lease or rental agreement entered into or renewed on or after January 1, 2004, that is in conflict or inconsistent with this section is void and may not be enforced.

Sec. 2308.254 ~~[684.013]~~. LIMITATION ON PARKING FACILITY OWNER'S AUTHORITY TO REMOVE UNAUTHORIZED VEHICLE. A parking facility owner may not have an unauthorized vehicle removed from the facility except:

(1) as provided by this chapter or a municipal ordinance that complies with Section 2308.208 ~~[684.101]~~; or

(2) under the direction of a peace officer or the owner or operator of the vehicle.

Sec. 2308.255 ~~[684.014]~~. TOWING COMPANY'S AUTHORITY TO REMOVE AND STORE UNAUTHORIZED VEHICLE. (a) A towing company that is insured as provided by Subsection (c) may, without the consent of an owner or operator of an unauthorized vehicle, remove and store the vehicle at a vehicle storage facility at the expense of the owner or operator of the vehicle if:

(1) the towing company has received written verification from the parking facility owner that:

(A) the parking facility owner has installed the signs required by Section 2308.252(a)(1) ~~[684.012(a)(1)]~~; or

(B) the owner or operator received notice under Section 2308.252(a)(2) ~~[684.012(a)(2)]~~ or the parking facility owner gave notice complying with Section 2308.252(a)(3) ~~[684.012(a)(3)]~~; or

(2) the vehicle is:

(A) left in violation of Section 2308.251 ~~[684.011]~~; or

(B) in or obstructing a portion of a paved driveway or abutting public roadway used for entering or exiting the facility and the removal is approved by a peace officer.

(b) A towing company may not remove an unauthorized vehicle except under:

(1) this chapter;

(2) a municipal ordinance that complies with Section 2308.208 ~~[684.101]~~; or

(3) the direction of a peace officer or the owner or operator of the vehicle.

(c) Only a towing company that is insured against liability for property damage incurred in towing a vehicle may remove and store an unauthorized vehicle under this section.

(d) A towing company may remove and store a vehicle under Subsection (a) only if the parking facility owner:

(1) requests that the towing company remove and store the specific vehicle; or

(2) has a standing written agreement with the towing company to enforce parking restrictions in the parking facility from which the vehicle will be removed.

Sec. 2308.256 ~~[684.015]~~. VEHICLE STORAGE FACILITY'S DUTY TO REPORT AFTER ACCEPTING UNAUTHORIZED VEHICLE. (a) A vehicle storage facility accepting a vehicle that is towed under this chapter shall within two hours after receiving the vehicle report to the police department of the municipality in which the parking facility is located, or, if the parking facility is not located in a municipality having a police department, to the sheriff of the county in which the parking facility is located:

(1) a general description of the vehicle;

(2) the state and number of the vehicle's license plate, if any;

(3) the vehicle identification number of the vehicle, if it can be ascertained;

(4) the location from which the vehicle was towed; and

(5) the name and location of the vehicle storage facility where the vehicle is being stored.

(b) The report required by this section must be made by telephone or delivered personally or by facsimile.

SECTION 2.04. Subchapter C, Chapter 684, Transportation Code, is transferred to Chapter 2308, Occupations Code, and redesignated as Subchapter G, Chapter 2308, Occupations Code, and Sections 684.031 through 684.035, Transportation Code, are renumbered as Sections 2308.301 through 2308.305, Occupations Code, and amended to read as follows:

SUBCHAPTER G ~~[C]~~. SIGNS PROHIBITING UNAUTHORIZED VEHICLES AND DESIGNATING RESTRICTED AREAS

Sec. 2308.301 ~~[684.031]~~. GENERAL REQUIREMENTS FOR SIGN PROHIBITING UNAUTHORIZED VEHICLES. (a) Except as provided by Subsection (a)(2)(B) and Section 2308.304 ~~[684.034]~~ or 2308.305 ~~[684.035]~~ an unauthorized vehicle may not be towed under Section 2308.252(a)(1) ~~[684.012(a)(1)]~~ unless a sign prohibiting unauthorized vehicles on a parking facility is:

(1) facing and conspicuously visible to the driver of a vehicle that enters the facility;

(2) located:

(A) on the right or left side of each driveway or curb-cut through which a vehicle can enter the facility, including an entry from an alley abutting the facility; or

(B) at intervals along the entrance so that no entrance is farther than 25 feet from a sign if:

(i) curbs, access barriers, landscaping, or driveways do not establish definite vehicle entrances onto a parking facility from a public roadway other than an alley; and

(ii) the width of an entrance exceeds 35 feet;

(3) permanently mounted on a pole, post, permanent wall, or permanent barrier;

(4) installed on the parking facility; and

(5) installed so that the bottom edge of the sign is no lower than five feet and no higher than eight feet above ground level.

(b) Except as provided by Section 2308.305 ~~[684.035]~~, an unauthorized vehicle may be towed under Section 2308.252(a)(1) ~~[684.012(a)(1)]~~ only if each sign prohibiting unauthorized vehicles:

(1) is made of weather-resistant material;

(2) is at least 18 inches wide and 24 inches tall;

(3) contains the international symbol for towing vehicles;

(4) contains a statement describing who may park in the parking facility and prohibiting all others;

(5) bears the words "Unauthorized Vehicles Will Be Towed at Owner's or Operator's Expense";

(6) contains a statement of the days and hours of towing enforcement; and

(7) contains a number, including the area code, of a telephone that is answered 24 hours a day to enable an owner or operator of a vehicle to locate the vehicle.

Sec. 2308.302 ~~[684.032]~~. COLOR, LAYOUT, AND LETTERING HEIGHT REQUIREMENTS. (a) Except as provided by Section 2308.305 ~~[684.035]~~, each sign required by this chapter must comply with the color, layout, and lettering height requirements of this section.

(b) A bright red international towing symbol, which is a solid silhouette of a tow truck towing a vehicle on a generally rectangular white background, at least four inches in height, must be on the uppermost portion of a sign or on a separate sign placed immediately above the sign.

(c) The portion of the sign immediately below the international towing symbol must contain the words "Towing Enforced" or the information provided by Section 2308.301(b)(4) ~~[684.031(b)(4)]~~ in lettering at least two inches in height. The lettering on this portion of the sign must consist of white letters on a bright red background.

(d) Except as provided by Subsection (e), the next lower portion of the sign must contain the remaining information required by Section 2308.301(b) ~~[684.031(b)]~~ displayed in bright red letters at least one inch in height on a white background.

(e) The bottommost portion of the sign must contain the telephone number required by Section 2308.301(b) ~~[684.031(b)]~~, in lettering at least one inch in height and may, if the facility owner chooses or if an applicable municipal ordinance requires, include the name and address of the storage facility to which an unauthorized vehicle will be removed. The lettering on this portion of the sign must consist of white letters on a bright red background.

Sec. 2308.303 ~~[684.033]~~. TELEPHONE NUMBER FOR LOCATING TOWED VEHICLE REQUIRED. If a parking facility owner posts a sign described by Sections 2308.301 ~~[684.031]~~ and 2308.302 ~~[684.032]~~, the owner of a vehicle that is towed from the facility under this chapter must be able to locate the vehicle by calling the telephone number on the sign.

Sec. 2308.304 ~~[684.034]~~. DESIGNATION OF RESTRICTED PARKING SPACES ON OTHERWISE UNRESTRICTED PARKING FACILITY. A parking facility owner may designate one or more spaces as restricted parking spaces on a portion of an otherwise unrestricted parking facility. Instead of installing a sign at each entrance to the parking facility as provided by Section 2308.301(a)(2) ~~[684.031(a)(2)]~~, an owner may place a sign that prohibits unauthorized vehicles from parking in designated spaces and that otherwise complies with Sections 2308.301 ~~[684.031]~~ and 2308.302 ~~[684.032]~~:

(1) at the right or left side of each entrance to a designated area or group of parking spaces located on the restricted portion of the parking facility; or

(2) at the end of a restricted parking space so that the sign, the top of which must not be higher than seven feet above the ground, is in front of a vehicle that is parked in the space and the rear of which is at the entrance of the space.

Sec. 2308.305 ~~[684.035]~~. INDIVIDUAL PARKING RESTRICTIONS IN RESTRICTED AREA. (a) A parking facility owner who complies with Sections 2308.301 ~~[684.031]~~ and 2308.302 ~~[684.032]~~ may impose further specific parking restrictions in an area to which the signs apply for individual spaces by installing or painting a weather-resistant sign or notice on a curb, pole, post, permanent wall, or permanent barrier so that the sign is in front of a vehicle that is parked in the space and the rear of which is at the entrance of the space.

(b) The top of the sign or notice may not be higher than seven feet above the ground.

(c) The sign or notice must include an indication that the space is reserved for a particular unit number, person, or type of person.

(d) The letters on the sign or notice must be at least two inches in height and must contrast to the color of the curb, wall, or barrier so they can be read during the day and at night. The letters are not required to be illuminated or made of reflective material.

SECTION 2.05. Subchapter D, Chapter 684, Transportation Code, is transferred to Chapter 2308, Occupations Code, and redesignated as Subchapter H, Chapter 2308, Occupations Code, and Sections 684.051 through 684.054, Transportation Code, are renumbered as Sections 2308.351 through 2308.354, Occupations Code, and amended to read as follows:

SUBCHAPTER H ~~[D]~~. REGULATION OF PARKING ON CERTAIN PUBLIC ROADWAY AREAS

Sec. 2308.351 ~~[684.051]~~. REMOVAL OF UNAUTHORIZED VEHICLE FROM LEASED RIGHT-OF-WAY. Unless prohibited by the lease, a parking facility owner or towing company may remove an unauthorized vehicle parked in a leased area described by Section 2308.002(7)(B)(i) ~~[684.001(1)(B)(i)]~~ if the owner or towing company gives notice under Section 2308.252(a)(1), (2), or (3) ~~[684.012(a)(1), (2), or (3)]~~ and otherwise complies with this chapter.

Sec. 2308.352 ~~[684.052]~~. REMOVAL OF UNAUTHORIZED VEHICLE FROM AREA BETWEEN PARKING FACILITY AND PUBLIC ROADWAY. Unless prohibited by a municipal ordinance, a parking facility owner or towing company may remove an unauthorized vehicle any part of which is in an area described by Section 2308.002(7)(B)(ii) ~~[684.001(1)(B)(ii)]~~ if notice provided by Section 2308.252(a)(2) or (3) ~~[684.012(a)(2) or (3)]~~ is given and the owner or towing company has otherwise complied with this chapter.

Sec. 2308.353 ~~[684.053]~~. REMOVAL UNDER GOVERNMENTAL ENTITY'S AUTHORITY OF UNAUTHORIZED VEHICLE PARKED IN RIGHT-OF-WAY. (a) A governmental entity that has jurisdiction over a public roadway and that has posted one or more signs in the right-of-way stating that parking is prohibited in the right-of-way may:

(1) remove or contract with a towing company to remove an unauthorized vehicle parked in the right-of-way of the public roadway; or

(2) grant written permission to an abutting parking facility owner to:

(A) post one or more "No parking in R.O.W." signs along a common property line of the facility and the roadway; and

(B) remove vehicles from the right-of-way of the public roadway under this chapter.

(b) A sign under Subsection (a)(2) must:

(1) state that a vehicle parked in the right-of-way may be towed at the expense of the owner or operator of the vehicle;

(2) be placed facing the public roadway:

(A) on the parking facility owner's property not more than two feet from the common boundary line; and

(B) at intervals so that no point in the boundary line is less than 25 feet from a sign posted under this subsection; and

(3) in all other respects comply with Subchapter G ~~[E]~~.

(c) After signs have been posted under Subsection (b), the parking facility owner or a towing company may remove an unauthorized vehicle from the right-of-way subject to the governmental entity's written permission given under Subsection (a)(2).

Sec. 2308.354 ~~[684.054]~~. AUTHORITY FOR REMOVAL OF VEHICLE FROM PUBLIC ROADWAY. (a) Under an ordinance of a municipality regulating the parking of vehicles in the municipality, to aid in the enforcement of the ordinance, an employee designated by the municipality may be authorized to:

(1) immobilize a vehicle parked in the municipality; and

(2) remove an immobilized vehicle from a public roadway in the municipality.

(b) A parking facility owner or towing company may not remove a vehicle from a public roadway except under:

(1) this chapter or a municipal ordinance that complies with Section 2308.208 ~~[684.101]~~; or

(2) the direction of a peace officer or the owner or operator of the vehicle.

SECTION 2.06. Subchapter E, Chapter 684, Transportation Code, is transferred to Chapter 2308, Occupations Code, and redesignated as Subchapter I, Chapter 2308, Occupations Code, and Sections 684.081 through 684.087, Transportation Code, are renumbered as Sections 2308.401 through 2308.407, Occupations Code, to read as follows:

SUBCHAPTER I ~~[E]~~. REGULATION OF TOWING COMPANIES AND
- PARKING FACILITY OWNERS

Sec. 2308.401 ~~[684.081]~~. PARKING FACILITY OWNER PROHIBITED FROM RECEIVING FINANCIAL GAIN FROM TOWING COMPANY. (a) A parking facility owner may not directly or indirectly accept anything of value from a towing company in connection with the removal of a vehicle from a parking facility.

(b) A parking facility owner may not have a direct or indirect monetary interest in a towing company that for compensation removes unauthorized vehicles from a parking facility in which the parking facility owner has an interest.

Sec. 2308.402 ~~[684.082]~~. TOWING COMPANY PROHIBITED FROM FINANCIAL INVOLVEMENT WITH PARKING FACILITY OWNER. (a) A towing company may not directly or indirectly give anything of value to a parking facility owner in connection with the removal of a vehicle from a parking facility.

(b) A towing company may not have a direct or indirect monetary interest in a parking facility from which the towing company for compensation removes unauthorized vehicles.

Sec. 2308.403 ~~[684.083]~~. LIMITATION ON LIABILITY OF PARKING FACILITY OWNER FOR REMOVAL OR STORAGE OF UNAUTHORIZED VEHICLE. A parking facility owner who causes the removal of an unauthorized vehicle is not liable for damages arising from the removal or storage of the vehicle if the vehicle:

(1) was removed in compliance with this chapter; and

(2) is:

(A) removed by a towing company insured against liability for property damage incurred in towing a vehicle; and

(B) stored by a vehicle storage facility insured against liability for property damage incurred in storing a vehicle.

Sec. 2308.404 ~~[684.084]~~. CIVIL LIABILITY OF TOWING COMPANY OR PARKING FACILITY OWNER FOR VIOLATION OF CHAPTER. (a) A towing company or parking facility owner who violates this chapter is liable to the owner or operator of the vehicle that is the subject of the violation for:

- (1) damages arising from the removal or storage of the vehicle; and
- (2) towing or storage fees assessed in connection with the vehicle's removal or storage.

(b) A vehicle's owner or operator is not required to prove negligence of a parking facility owner or towing company to recover under Subsection (a).

(c) A towing company or parking facility owner who intentionally, knowingly, or recklessly violates this chapter is liable to the owner or operator of the vehicle that is the subject of the violation for \$300 plus three times the amount of fees assessed in the vehicle's removal, towing, or storage.

(d) In a suit brought under this chapter, the prevailing party is entitled to recover reasonable attorney's fees.

Sec. 2308.405 ~~[684.085]~~. VIOLATION OF CHAPTER; FINE. A violation of this chapter is a misdemeanor punishable by a fine of not less than \$500 or more than \$1,500.

Sec. 2308.406 ~~[684.086]~~. VIOLATION OF CHAPTER; INJUNCTION. A violation of this chapter may be enjoined under Subchapter E, Chapter 17, Business & Commerce Code.

Sec. 2308.407 ~~[684.087]~~. MINOR SIGN OR LETTERING HEIGHT VARIATIONS. A minor variation of a required or minimum height of a sign or lettering is not a violation of this chapter.

SECTION 2.07. Sections 685.002 through 685.010, Transportation Code, are transferred to Chapter 2308, Occupations Code, designated as Subchapter J, Chapter 2308, Occupations Code, renumbered as Sections 2308.451 through 2308.459, Occupations Code, and amended to read as follows:

SUBCHAPTER J. RIGHTS OF OWNERS AND OPERATORS OF STORED
VEHICLES

Sec. 2308.451 ~~[685.002]~~. PAYMENT OF COST OF REMOVAL AND STORAGE OF VEHICLE. (a) If in a hearing held under this chapter the court finds that a person or law enforcement agency authorized, with probable cause, the removal and storage in a vehicle storage facility of a vehicle, the person who requested the hearing shall pay the costs of the removal and storage.

(b) If in a hearing held under this chapter the court does not find that a person or law enforcement agency authorized, with probable cause, the removal and storage in a vehicle storage facility of a vehicle, the person or law enforcement agency that authorized the removal shall:

- (1) pay the costs of the removal and storage; or
- (2) reimburse the owner or operator for the cost of the removal and storage paid by the owner or operator.

Sec. 2308.452 ~~[685.003]~~. RIGHT OF OWNER OR OPERATOR OF VEHICLE TO HEARING. The owner or operator of a vehicle that has been removed and placed in a vehicle storage facility without the consent of the owner or operator of the vehicle is entitled to a hearing on whether probable cause existed for the removal and placement.

Sec. 2308.453 ~~[685.004]~~. JURISDICTION. A hearing under this chapter shall be in the justice court having jurisdiction in the precinct in which the vehicle storage facility is located.

Sec. 2308.454 ~~[685.005]~~. NOTICE TO VEHICLE OWNER OR OPERATOR. (a) If before a hearing held under this chapter the owner or operator of a vehicle pays the costs of the vehicle's removal or storage, the towing company or vehicle storage facility that received the payment shall at the time of payment give the owner or operator written notice of the person's rights under this chapter.

(b) The operator of a vehicle storage facility that sends a notice under Subchapter D, Chapter 2303, ~~[Occupations Code]~~, shall include with that notice a notice of the person's rights under this chapter.

Sec. 2308.455 ~~[685.006]~~. CONTENTS OF NOTICE. The notice under Section 2308.454 ~~[685.005]~~ must include:

(1) a statement of:

(A) the person's right to submit a request within 14 days for a court hearing to determine whether probable cause existed to remove the vehicle;

(B) the information that a request for a hearing must contain; and

(C) any filing fee for the hearing;

(2) the name, address, and telephone number of the towing company that removed the vehicle;

(3) the name, address, and telephone number of the vehicle storage facility in which the vehicle was placed;

(4) the name, address, and telephone number of the person, property owner, or law enforcement agency that authorized the removal of the vehicle; and

(5) the name, address, and telephone number of the justice court having jurisdiction in the precinct in which the vehicle storage facility is located.

Sec. 2308.456 ~~[685.007]~~. REQUEST FOR HEARING. (a) Except as provided by Subsection (c), a person entitled to a hearing under this chapter must deliver a written request for the hearing to the court before the 14th day after the date the vehicle was removed and placed in the vehicle storage facility, excluding Saturdays, Sundays, and legal holidays.

(b) A request for a hearing must contain:

(1) the name, address, and telephone number of the owner or operator of the vehicle;

(2) the location from which the vehicle was removed;

(3) the date when the vehicle was removed;

(4) the name, address, and telephone number of the person or law enforcement agency that authorized the removal;

(5) the name, address, and telephone number of the vehicle storage facility in which the vehicle was placed;

(6) the name, address, and telephone number of the towing company that removed the vehicle;

(7) a copy of any receipt or notification that the owner or operator received from the towing company or the vehicle storage facility; and

(8) if the vehicle was removed from a parking facility:

(A) one or more photographs that show the location and text of any sign posted at the facility restricting parking of vehicles; or

(B) a statement that no sign restricting parking was posted at the parking facility.

(c) If notice was not given under Section 2308.454 [~~685.005~~], the 14-day deadline for requesting a hearing under Subsection (a) does not apply, and the owner or operator of the vehicle may deliver a written request for a hearing at any time.

(d) A person who fails to deliver a request in accordance with Subsection (a) waives the right to a hearing.

Sec. 2308.457 [~~685.008~~]. FILING FEE AUTHORIZED. The court may charge a filing fee of \$20 for a hearing under this chapter.

Sec. 2308.458 [~~685.009~~]. HEARING. (a) A hearing under this chapter shall be held before the 14th [~~10th~~] working day after the date the court receives the request for the hearing.

(b) The court shall notify the person who requested the hearing, ~~and~~ the person or law enforcement agency that authorized the removal of the vehicle, and the vehicle storage facility in which the vehicle was placed of the date, time, and place of the hearing in a manner provided by Rule 21a, Texas Rules of Civil Procedure ~~[by registered or certified mail]~~. The notice of the hearing to the person or law enforcement agency that authorized the removal of the vehicle shall include a copy of the request for hearing.

(b-1) At a hearing under this section:

(1) the burden of proof is on the person who requested the hearing; and

(2) hearsay evidence is admissible if it is considered otherwise reliable by the justice of the peace.

(c) The issues in a hearing under this chapter are:

(1) whether probable cause existed for the removal and placement of the vehicle;

(2) whether a towing charge imposed or collected in connection with the removal or placement of the vehicle was greater than the amount authorized by the political subdivision under Section 2308.201 [~~643.201~~] or 2308.202 [~~643.203~~];

(3) whether a towing charge imposed or collected in connection with the removal or placement of the vehicle was greater than the amount authorized under Section 2308.203 [~~643.204~~] or 2308.204 [~~643.205~~]; or

(4) whether a towing charge imposed or collected in connection with the removal or placement of the vehicle was greater than the amount filed with the department under Section 2308.206 [~~643.207~~].

(d) The court shall make written findings of fact and a conclusion of law.

(e) The court may award:

- (1) court costs to the prevailing party;
- (2) the reasonable cost of photographs submitted under Section 2308.456(b)(8) [~~685.007(b)(8)~~] to a vehicle owner or operator who is the prevailing party; ~~and~~
- (3) an amount equal to the amount that the towing charge exceeded fees regulated by a political subdivision or authorized by this code or by Chapter 2303; and
- (4) reimbursement of fees paid for vehicle towing and storage [; Occupations Code].

Sec. 2308.459 [~~685.010~~]. APPEAL. An appeal from a hearing under this chapter is governed by the rules of procedure applicable to civil cases in justice court, except that no appeal bond may be required by the court.

SECTION 2.08. Subchapter J, Chapter 2308, Occupations Code, as added by this Act, is amended by adding Section 2308.460 to read as follows:

Sec. 2308.460. ENFORCEMENT OF AWARD. An award under this chapter may be enforced by any means available for the enforcement of a judgment for a debt.

SECTION 2.09. Chapter 2308, Occupations Code, is amended by adding Subchapter K to read as follows:

SUBCHAPTER K. ENFORCEMENT

Sec. 2308.501. ADMINISTRATIVE PENALTY. (a) The commission may impose an administrative penalty on a person under Subchapter F, Chapter 51, regardless of whether the person holds a registration, permit, or license under this chapter, if the person violates:

- (1) this chapter or a rule adopted under this chapter; or
- (2) a rule or order of the executive director or commission.
- (b) An administrative penalty may not be imposed unless the person charged with a violation is provided the opportunity for a hearing.

Sec. 2308.502. CEASE AND DESIST ORDER; INJUNCTION; CIVIL PENALTY. (a) The executive director may issue a cease and desist order as necessary to enforce this chapter if the executive director determines that the action is necessary to prevent a violation of this chapter and to protect public health and safety.

(b) The attorney general or executive director may institute an action for an injunction or a civil penalty under this chapter as provided by Section 51.352.

Sec. 2308.503. SANCTIONS. The department may impose sanctions as provided by Section 51.353.

Sec. 2308.504. CRIMINAL PENALTY; LICENSING. (a) A person commits an offense if the person:

- (1) violates the permitting or licensing requirements of this chapter;
- (2) performs towing without a license to perform towing in this state;
- (3) employs an individual who does not hold the appropriate license required by this chapter; or
- (4) falsifies a certification or training.
- (b) An offense under this section is a Class C misdemeanor.

SECTION 2.10. Section 643.253(d), Transportation Code, is transferred to Subchapter K, Chapter 2308, Occupations Code, renumbered as Section 2308.505, Occupations Code, and amended to read as follows:

Sec. 2308.505. CRIMINAL PENALTY; TOWING. (a) ~~(d)~~ A person commits an offense if the person:

(1) violates an ordinance, resolution, order, rule, or regulation of a political subdivision adopted under Section 2308.201 ~~[643.201]~~ or 2308.202 ~~[643.203]~~, for which the political subdivision does not prescribe the penalty;

(2) charges or collects a fee in a political subdivision that regulates the operation of tow trucks under Section 2308.201 ~~[643.201]~~ or 2308.202 ~~[643.203]~~ that is not authorized or is greater than the authorized amount of the fee;

(3) charges or collects a fee greater than the amount authorized under Section 2308.204 ~~[643.205]~~;

(4) charges or collects a fee in excess of the amount filed with the department under Section 2308.206 ~~[643.207]~~;

(5) violates Section 2308.205 ~~[643.206]~~; or

(6) violates a rule of the department applicable to a tow truck and towing company.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$200 or more than \$1,000 per violation.

ARTICLE 3. CONFORMING AMENDMENTS

SECTION 3.01. Article 18.23(e), Code of Criminal Procedure, is amended to read as follows:

(e) Subchapter J, Chapter 2308, Occupations Code ~~[Chapter 685, Transportation Code]~~, does not apply to a motor vehicle directed by a law enforcement agency to be towed and stored for an evidentiary or examination purpose.

SECTION 3.02. Section 101.141(a), Government Code, is amended to read as follows:

(a) A clerk of a justice court shall collect fees and costs as follows:

(1) additional court cost in certain civil cases to establish and maintain an alternative dispute resolution system, if authorized by the commissioners court of a county with a population of at least 2.5 million (Sec. 152.005, Civil Practice and Remedies Code) . . . not to exceed \$3;

(2) additional filing fees:

(A) to fund Dallas County civil court facilities (Sec. 51.705, Government Code) . . . not more than \$15; and

(B) for filing any civil action or proceeding requiring a filing fee, including an appeal, and on the filing of any counterclaim, cross-action, intervention, interpleader, or third-party action requiring a filing fee, to fund civil legal services for the indigent (Sec. 133.153, Local Government Code) . . . \$2;

(3) for filing a suit in Comal County (Sec. 152.0522, Human Resources Code) . . . \$1.50;

(4) fee for hearing on probable cause for removal of a vehicle and placement in a storage facility if assessed by the court (Sec. 2308.457, Occupations Code ~~[685.008, Transportation Code]~~) . . . \$20;

(5) court fees and costs, if ordered by the court, for a suit filed by an inmate in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser of:

(A) 20 percent of the preceding six months' deposits to the inmate's trust account administered by the Texas Department of Criminal Justice under Section 501.014, Government Code; or

(B) the total amount of court fees and costs;

(6) monthly payment for remaining court fees and costs after the initial payment for a suit in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser of:

(A) 10 percent of that month's deposit to the inmate's trust account administered by the Texas Department of Criminal Justice under Section 501.014, Government Code; or

(B) the total amount of court fees and costs that remain unpaid;

(7) the following costs not otherwise charged to the inmate under Section 14.006, Civil Practice and Remedies Code, if the inmate has previously filed an action dismissed as malicious or frivolous (Sec. 14.007, Civil Practice and Remedies Code):

(A) expenses of service of process;

(B) postage; and

(C) transportation, housing, or medical care incurred in connection with the appearance of the inmate in the court for any proceeding; and

(8) the cost of a special program that a court may order a child to attend after a finding that the child committed an offense, if ordered by the court (Art. 45.057, Code of Criminal Procedure) . . . costs of the program not to exceed \$100.

SECTION 3.03. Section 101.161, Government Code, is amended to read as follows:

Sec. 101.161. MUNICIPAL COURT FEES AND COSTS. The clerk of a municipal court shall collect:

(1) a fee for a hearing on probable cause for removal of a vehicle and placement in a storage facility if assessed by the court (Sec. 2308.457, Occupations Code [~~685.008, Transportation Code~~]) . . . \$20; and

(2) the cost of a special program that a court may order a child to attend after finding that the child committed an offense, if ordered by the court (Art. 45.057, Code of Criminal Procedure) . . . costs of the program not to exceed \$100.

SECTION 3.04. Section 2303.155(f), Occupations Code, is amended to read as follows:

(f) The operator of a vehicle storage facility or governmental vehicle storage facility may not charge an additional fee related to the storage of a vehicle other than a fee authorized by this section or a towing fee authorized by Chapter 2308 [~~Chapter 643, Transportation Code~~].

SECTION 3.05. Section 504.508(c), Transportation Code, is amended to read as follows:

(c) Proof of eligibility for license plates under this section must include a copy of the permit ~~[registration]~~ certificate issued by the Texas Department of Licensing and Regulation ~~[department]~~ for the tow truck.

SECTION 3.06. Section 643.002, Transportation Code, is amended to read as follows:

Sec. 643.002. EXEMPTIONS. This chapter does not apply to:

(1) a motor vehicle registered under the single state registration system established under 49 U.S.C. Section 14504(c) when operating exclusively in interstate or international commerce;

(2) a motor vehicle registered as a cotton vehicle under Section 502.277;

(3) a motor vehicle the department by rule exempts because the vehicle is subject to comparable registration and a comparable safety program administered by another governmental entity;

(4) a motor vehicle used to transport passengers operated by an entity whose primary function is not the transportation of passengers, such as a vehicle operated by a hotel, day-care center, public or private school, nursing home, or similar organization;

(5) a vehicle operating under a private carrier permit issued under Chapter 42, Alcoholic Beverage Code; ~~[or]~~

(6) a vehicle operated by a governmental entity; or

(7) a tow truck, as defined by Section 2308.002, Occupations Code.

SECTION 3.07. Section 643.051(a), Transportation Code, is amended to read as follows:

(a) A motor carrier may not operate a commercial motor vehicle, as defined by Section 548.001, ~~[or a tow truck]~~ on a road or highway of this state unless the carrier registers with the department under this subchapter.

SECTION 3.08. Section 643.053, Transportation Code, is amended to read as follows:

Sec. 643.053. FILING OF APPLICATION. An application under Section 643.052 must be filed with the department and accompanied by:

(1) an application fee of \$100 plus a \$10 fee for each vehicle requiring registration ~~[other than a tow truck or a \$25 fee for each tow truck the motor carrier proposes to operate];~~

(2) evidence of insurance or financial responsibility as required by Section 643.103(a); and

(3) any insurance filing fee required under Section 643.103(c).

SECTION 3.09. Sections 643.057(a) and (d), Transportation Code, are amended to read as follows:

(a) A motor carrier may not operate an additional vehicle requiring registration unless the carrier pays a registration fee of \$10 for each additional vehicle ~~[other than a tow truck or \$25 for each tow truck]~~ and shows the department evidence of insurance or financial responsibility for the vehicle in an amount at least equal to the amount set by the department under Section 643.101.

(d) The department may not collect more than \$10 in equipment registration fees for a vehicle ~~[other than a tow truck]~~ registered under both this subchapter and Chapter 645 ~~[or more than \$25 if the vehicle is a tow truck]~~.

SECTION 3.10. Section 643.058(c), Transportation Code, is amended to read as follows:

(c) A motor carrier may renew a registration under this subchapter by:

(1) supplementing the application with any new information required under Section 643.056;

(2) paying a \$10 fee for each vehicle requiring registration ~~[other than a tow truck or a fee of \$25 for each tow truck the carrier operates]; and~~

(3) providing the department evidence of continuing insurance or financial responsibility in an amount at least equal to the amount set by the department under Section 643.101.

SECTION 3.11. Section 643.061(b), Transportation Code, is amended to read as follows:

(b) A motor carrier applying for registration under this section must pay:

(1) a \$20 fee for each vehicle registered ~~[other than a tow truck or a fee of \$50 for each tow truck]~~ under Subsection (a)(1);

(2) a \$10 fee for each vehicle registered ~~[other than a tow truck or a fee of \$25 for each tow truck]~~ under Subsection (a)(2); and

(3) application and insurance filing fees the department by rule adopts in an amount not to exceed \$100 each.

SECTION 3.12. Section 643.253(e), Transportation Code, is amended to read as follows:

(e) An offense under Subsection (b) ~~[or (d)]~~ is a misdemeanor punishable by a fine of not less than \$200 or more than \$1,000 per violation.

SECTION 3.13. Section 1(1), Chapter 528, Acts of the 76th Legislature, Regular Session, 1999 (Article 178d-1, Vernon's Texas Civil Statutes), is amended to read as follows:

(1) "Parking facility," "parking facility owner," and "vehicle" have the meanings assigned by Section 2308.002, Occupations Code ~~[684.001, Transportation Code]~~.

ARTICLE 4. MISCELLANEOUS

SECTION 4.01. Section 683.012, Transportation Code, is amended by adding Subsection (f) to read as follows:

(f) In addition to the notice required under Subsection (a), if a law enforcement agency takes an abandoned motor vehicle into custody, the agency shall notify a person that files a theft report or similar report prepared by any law enforcement agency for the vehicle of that fact. The notice must be sent by regular mail on the next business day after the agency takes the vehicle into custody. The law enforcement agency shall also provide the name and address of the person that filed the theft report or similar report to the vehicle storage facility or governmental vehicle storage facility that is storing the vehicle.

ARTICLE 5. TRANSITION AND EFFECTIVE DATE

SECTION 5.01. (a) The following provisions of the Transportation Code are repealed:

- (1) Section 643.001(7);
- (2) Section 643.101(d);
- (3) Section 643.202;
- (4) Section 684.001;
- (5) Section 685.001;
- (6) the heading to Subchapter E, Chapter 643;
- (7) the heading to Chapter 684;
- (8) the headings to Subchapters A, B, and F, Chapter 684; and
- (9) the heading to Chapter 685.

(b) Subchapters E and F, Chapter 2303, Occupations Code, are repealed.

SECTION 5.02. As soon as practicable after the effective date of this Act, the presiding officer of the Texas Commission of Licensing and Regulation shall make the initial appointments to the Towing and Storage Advisory Board. The presiding officer shall appoint two members to terms expiring February 1, 2009, three members to terms expiring February 1, 2011, and three members to terms expiring February 1, 2013.

SECTION 5.03. (a) As soon as practicable after the effective date of this Act, the Texas Department of Transportation and the Texas Department of Licensing and Regulation shall develop and enter into a memorandum of understanding regarding the transfer described in this section that includes a transition plan for transferring the functions performed by the Texas Transportation Commission and the Texas Department of Transportation that relate to tow trucks, towing operations, or vehicle storage facilities to the Texas Department of Licensing and Regulation. The transition plan must include a timetable with specific steps and deadlines needed to complete the transfer, and may include provisions for the extension of expiration dates for licenses.

(b) In accordance with the transition plan developed by the Texas Department of Transportation and the Texas Department of Licensing and Regulation under Subsection (a) of this section, on January 1, 2008:

(1) all functions and activities performed by the Texas Transportation Commission and the Texas Department of Transportation relating to tow trucks, towing operations, or vehicle storage facilities immediately before that date are transferred to the Texas Department of Licensing and Regulation;

(2) a rule or form adopted by the Texas Transportation Commission and the Texas Department of Transportation that relates to tow trucks, towing operations, or vehicle storage facilities is a rule or form of the Texas Commission of Licensing and Regulation or the Texas Department of Licensing and Regulation, as applicable, and remains in effect until amended or replaced by that commission or department;

(3) a reference in law to or an administrative rule of the Texas Transportation Commission and the Texas Department of Transportation that relates to tow trucks, towing operations, or vehicle storage facilities means the Texas Commission of Licensing and Regulation or the Texas Department of Licensing and Regulation, as applicable;

(4) a complaint, investigation, or other proceeding before the Texas Transportation Commission or the Texas Department of Transportation that is related to tow trucks, towing operations, or vehicle storage facilities is transferred without change in status to the Texas Department of Licensing and Regulation, and the Texas Department of Licensing and Regulation assumes, as appropriate and without a change in status, the position of the Texas Transportation Commission and the Texas Department of Transportation in an action or proceeding to which the Texas Transportation Commission or the Texas Department of Transportation is a party;

(5) all full-time equivalent employee positions at the Texas Department of Transportation that primarily concern the administration of tow trucks, towing operations, or vehicle storage facilities become positions at the Texas Department of Licensing and Regulation, and when filling the positions, the Texas Department of Licensing and Regulation shall give first consideration to an applicant who, as of December 31, 2007, was a full-time employee at the Texas Department of Transportation primarily involved in administering tow trucks, towing operations, or vehicle storage facilities;

(6) all money, contracts, leases, property, and obligations of the Texas Department of Transportation related to the regulation of tow trucks, towing operations, or vehicle storage facilities are transferred to the Texas Department of Licensing and Regulation;

(7) all property in the custody of the Texas Department of Transportation related to tow trucks, towing operations, or vehicle storage facilities is transferred to the Texas Department of Licensing and Regulation; and

(8) the unexpended and unobligated balance of any money appropriated by the legislature for the Texas Transportation Commission and the Texas Department of Transportation related to tow trucks, towing operations, or vehicle storage facilities is transferred to the Texas Department of Licensing and Regulation.

(c) Before January 1, 2008, the Texas Department of Transportation may agree with the Texas Department of Licensing and Regulation to transfer any property of the Texas Department of Transportation to the Texas Department of Licensing and Regulation to implement the transfer required by this Act.

(d) In the period beginning with the effective date of this Act and ending on December 31, 2007, the Texas Transportation Commission and the Texas Department of Transportation shall continue to perform functions and activities under Chapter 2303, Occupations Code, and those portions of Chapters 643 and 684, Transportation Code, that relate to tow trucks, towing operations, or vehicle storage facilities, as if those laws were not amended by this Act, and the former law is continued in effect for that purpose.

SECTION 5.04. Not later than April 1, 2008, the Texas Commission of Licensing and Regulation shall adopt rules relating to an original application for a permit or license under Chapter 2303, Occupations Code, as amended by this Act, and Chapter 2308, Occupations Code, as added by this Act.

SECTION 5.05. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 2007.

(b) Section 2308.504, Occupations Code, as added by this Act, and Subchapters C and D, Chapter 2308, Occupations Code, as added by this Act, take effect September 1, 2008.

Representative Hill moved to adopt the conference committee report on **HB 2094**.

A record vote was requested.

The motion to adopt the conference committee report on **HB 2094** prevailed by (Record 2020): 142 Yeas, 1 Nays, 2 Present, not voting.

Yeas — Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Castro; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Moreno; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Nays — Phillips.

Present, not voting — Mr. Speaker; Turner(C).

Absent, Excused — Allen; Chavez; Ritter.

Absent — Callegari; Jones.

HB 3154 - RULES SUSPENDED

Representative Laubenberg moved to suspend all necessary rules to consider the conference committee report on **HB 3154**.

The motion prevailed.

HB 3154 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Laubenberg submitted the following conference committee report on **HB 3154**:

Austin, Texas, May 26, 2007

The Honorable David Dewhurst
President of the Senate

The Honorable Tom Craddick
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 3154** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Deuell
Seliger
Van de Putte

Laubenberg
Taylor
Coleman
Zerwas

On the part of the senate

On the part of the house

HB 3154, A bill to be entitled An Act relating to the creation of a review committee to study the provision of indigent health care through county and regional health care services.

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

SECTION 1. (a) In this section, "region" means the area formed by the counties in public health region three of this state as established by the Department of State Health Services.

(b) The regional health care systems review committee is created to conduct public hearings regarding, and to study the implications of, implementing regional health care service to address indigent health care in the region.

(c) The committee consists of:

(1) each member of the legislature who represents a district that contains territory in the region;

(2) each county commissioner of a county located in the region;

(3) each county judge in the region; and

(4) the chief executive officer of each public, for-profit, and nonprofit hospital system in the region.

(d) In conducting hearings and studies, the committee shall:

(1) examine whether a regional system to provide indigent health care should be offered throughout the region;

(2) examine whether there should be a mechanism for additional counties to participate in the regional health care system; and

(3) perform a review of funding and financing options, including a review of funding indigent health care in the region.

(e) The initial meeting of the committee must take place before September 30, 2007. At the initial meeting the committee shall:

(1) adopt rules governing the committee; and

(2) establish a work plan and schedule for future meetings.

(f) The committee may accept gifts, grants, technical support, or any other resources from any source to carry out the functions of the committee.

(g) Not later than September 1, 2008, the committee shall issue a report on indigent health care that summarizes:

(1) hearings conducted by the committee;

(2) studies conducted by the committee;

(3) any legislation proposed by the committee; and

(4) any other findings or recommendations of the committee.

(h) Not later than December 1, 2008, the committee shall submit a copy of the summary report to the governor, the lieutenant governor, and the speaker of the house of representatives.

(i) This section expires September 1, 2009.

SECTION 2. This Act takes effect September 1, 2007.

Representative Laubenberg moved to adopt the conference committee report on **HB 3154**.

A record vote was requested.

The motion to adopt the conference committee report on **HB 3154** prevailed by (Record 2021): 143 Yeas, 0 Nays, 3 Present, not voting.

Yeas — Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Moreno; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker; Olivo; Turner(C).

Absent, Excused — Allen; Chavez; Ritter.

Absent — Castro.

PARLIAMENTARY INQUIRY

REPRESENTATIVE DUNNAM: Are the attorneys for Leg Council, who are not employees of the house, participating in rulings on points of order on bills that they have drafted? And I have a great deal of respect for Leg Council, and the individual attorneys, but I don't believe it's the function of Leg Council to assist the chair or parliamentarian in ruling on points of order, because they're ruling on points of order on legislation that they drafted.

SPEAKER PRO TEMPORE: The answer to your inquiry is no, Representative Dunnam.

DUNNAM: So counsel for Leg Council are not involved at all in any of these types of discussions regarding rulings on points of order?

SPEAKER PRO TEMPORE: That is correct.

DUNNAM: Thank you.

REPRESENTATIVE BURNAM: If what you said is true, why did the parliamentarian refer me for an answer to my question to a member of the Legislative Council, who has been on the dais for a significant portion of the afternoon?

SPEAKER PRO TEMPORE: The lawyers that are working with us today, Representative Burnam, are working for the parliamentarian's office and not for Legislative Council.

BURNAM: When was that decision determined, because I had the distinct impression from the employee of the Legislative Council that he is an employee of the Legislative Council, not a temporary employee of the temporary parliamentarian?

SPEAKER PRO TEMPORE: Representative Burnam, it's my understanding that that occurred five days ago.

BURNAM: Pardon?

SPEAKER PRO TEMPORE: Five days ago is my understanding. The employees are now working for the parliamentarian.

BURNAM: Five days ago, the staff member from the Legislative Council moved over to work as an assistant for the previous parliamentarian?

SPEAKER PRO TEMPORE: For the current parliamentarians, Representative Burnam, that is the chair's understanding.

BURNAM: The current parliamentarian was not the current parliamentarian five days ago?

SPEAKER PRO TEMPORE: Four days ago, Representative Burnam.

BURNAM: So, Mr. Speaker, are you purporting to the body that on Friday evening, in addition to the speaker hiring a new parliamentarian and assistant parliamentarian, there were additional legal staff hired away from, even on a temporary basis, Leg Council, to assist the parliamentarian and the assistant parliamentarian?

SPEAKER PRO TEMPORE: Representative Burnam, that is the chair's understanding.

BURNAM: And if that is the case, does that mean that the Legislative Council employee is no longer in the service of the Legislative Council and has not been drafting the bills and the amendments, etc., over the last several days?

SPEAKER PRO TEMPORE: Representative Burnam, that is the chair's understanding.

BURNAM: Would you, at this time, offer up the information concerning whether or not there are other members of the Legislative Council who have been temporarily employed by the parliamentarian's office to do the parliamentarian's work?

SPEAKER PRO TEMPORE: It is the chair's understanding, Representative Burnam, that it is only those three, as of Friday.

BURNAM: But they were participating in the drafting of these bills when they were at Leg Council, because that's what Leg Council does, am I not correct?

SPEAKER PRO TEMPORE: That is not the chair's understanding, Representative Burnam.

BURNAM: Then what does the Leg Council do, Mr. Speaker, if they don't help draft bills and amendments?

SPEAKER PRO TEMPORE: Not all lawyers in Legislative Council draft bills, Representative Burnam.

REPRESENTATIVE TALTON: Is it my understanding, then, that our rules, that we have a privilege with the Legislative Council?

SPEAKER PRO TEMPORE: Say it again, Representative Talton.

TALTON: Do we have an attorney-client privilege with the lawyers in Leg Council?

SPEAKER PRO TEMPORE: And how are you defining "we"?

TALTON: Well, it is, it's an attorney-client privilege, because it's my understanding that the relationship that each member on this floor has with Legislative Council lawyers, isn't that correct?

SPEAKER PRO TEMPORE: That is true, as to any individual advice given to that particular person, that's an attorney-client privilege.

TALTON: Or to any legislation, regarding any legislation on this floor, is that correct?

SPEAKER PRO TEMPORE: The services that they are providing, Representative Talton, are no different than the services they provided to the prior parliamentarians.

TALTON: No, Mr. Speaker, that is not correct. The prior parliamentarian, most of us on this floor when we talked to them as lawyers, they have an attorney-client privilege with the house members, every house member on this floor. And if Leg Council now is over here advising on points of order against some of us, as such, I have, for one, and I don't know about the other members here, have not waived my privilege, and I think they have to.

SPEAKER PRO TEMPORE: The lawyers that are working over here, the three lawyers, Representative—

TALTON: And I know many good lawyers, and they've been here for a long time.

SPEAKER PRO TEMPORE: Let me finish. The three lawyers, as far as this chair understands, as of Friday, are working for the parliamentarian. They are not violating any attorney-client privilege between you or any other member of the legislature. They may exist with other lawyers in Legislative Council.

TALTON: How do we know what bills these lawyers work on regarding these members on this house floor, and how do we know that they did not work on some of these bills that we have on this floor at this time?

SPEAKER PRO TEMPORE: Representative Talton, you may not know, and the chair at this point may not know, but the lawyers themselves know whether or not they worked on any bill that would violate their privilege with a particular member, and I would trust that recognizing their privilege, and the fact that they are attorneys, that they would not violate their attorney-client privilege with any particular member. I would trust, as a lawyer, in their ethics and their integrity, that they would operate with the greatest degree of integrity, and at this point in time, the chair has no reason to question their integrity.

TALTON: Well, Mr. Speaker, I do, in the sense that we do not know that, do we? And it bothers me that we had that relationship with Lege Council, which I have questioned over the years when things leak out. I've had that happen to me when I was a chairman, and I didn't appreciate that.

SPEAKER PRO TEMPORE: Representative Talton—

TALTON: And now I'm concerned that this may be going on now.

SPEAKER PRO TEMPORE: Representative Talton, if you have any evidence that any one of these lawyers has violated their attorney-client privilege, I would you invite you, as the chair, to bring that evidence to the chair, and we would look into it.

TALTON: I did that with the new executive director, he fully understands my problem, and I turned that over to him at the time.

BURNAM: Are you maintaining that that burden is on the members, as opposed to the attorney?

SPEAKER PRO TEMPORE: No, it is always, Representative Burnam, as an attorney, it is on the attorney to make sure that he or she does not violate the attorney-client privilege. The chair does not know all of the cases that they have worked on. The members may not know, but I trust that the attorneys would know whether or not they worked on a particular bill, with a particular legislator, and I trust that they would operate with the greatest degree of integrity in this house and for these members, that if they violate, if there's any question, that they would bring it not only to your attention, but to the attention of this chair. And I would invite any member who believes that an attorney-client privilege has been violated, to bring anything to the chair's attention, and we will look into it.

REPRESENTATIVE LEIBOWITZ: Yes, sir. I want to get along with the peoples' business as well, but something you said concerns me deeply. You stated that the, anyone that has any evidence, that they need to come forward to you, to show that there's a problem with respect to the gentlemen from the Legislative Council.

If you're an attorney, and you know that the burden is not on someone to come forward, just the appearance of impropriety is what needs to be addressed, not is there any evidence of impropriety. Do you not realize that?

SPEAKER PRO TEMPORE: Representative Leibowitz, I understand that, but the point is that it's very difficult for the chair to deal with hypotheticals. I can't deal with what may be, is or are. The point that I'm simply making is that if there is any, if you have any notion that that appearance has been violated, the attorney-client privilege, bring it to the chair's attention and we'll look into it. That's the point I'm trying to make.

LEIBOWITZ: The Legislative Council folks, they're working under the auspices of the parliamentarian currently?

SPEAKER PRO TEMPORE: No, these three attorneys are, that's correct.

LEIBOWITZ: And they are being paid under whose office?

SPEAKER PRO TEMPORE: Under the parliamentarian's office, for this particular period of time.

LEIBOWITZ: Are they being paid by Leg Council as well?

SPEAKER PRO TEMPORE: No, they are not, Representative Leibowitz.

LEIBOWITZ: Okay, so they're being paid by the parliamentarian's office?

SPEAKER PRO TEMPORE: That is correct.

LEIBOWITZ: So "x" number of days ago, they were in Legislative Council, and they were being paid to work on behalf of us as attorneys with attorney-client privileges, and now they're being paid by the parliamentarian's office, is that correct?

SPEAKER PRO TEMPORE: As of Friday, Representative Leibowitz, these three lawyers were working for the parliamentarian. They've done it before, it is no different. The practice is not new.

LEIBOWITZ: So you don't feel that there's an appearance of impropriety there in the context of what the facts are?

SPEAKER PRO TEMPORE: Representative Leibowitz, it is my understanding that it is the same as it has always been, and the chair does not have any indication that there has been any violation of any privilege, but if there is any inkling that there has been, if the members would bring it to the chair's attention, we would definitely look into it.

LEIBOWITZ: Lastly, you don't believe there's an inherent conflict of interest that cannot be resolved, that's irreconcilable, given the factual context of this discussion?

SPEAKER PRO TEMPORE: No, the chair does not, Representative Leibowitz.

REMARKS ORDERED PRINTED

Representative Coleman moved to print remarks regarding the Legislative Council staff advising parliamentarians.

The motion prevailed.

SB 11 - RULES SUSPENDED

Representative Corte moved to suspend all necessary rules to consider the conference committee report on **SB 11**.

A record vote was requested.

The motion prevailed by (Record 2022): 139 Yeas, 4 Nays, 2 Present, not voting.

Yeas — Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Castro; Chisum; Christian; Cohen; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Moreno; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Rose; Smith, T.; Smith, W.; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Nays — Burnam; Coleman; Herrero; Rodriguez.

Present, not voting — Mr. Speaker; Turner(C).

Absent, Excused — Allen; Chavez; Ritter.

Absent — Farias; Smithee.

STATEMENT OF VOTE

I was shown voting no on Record No. 2022. I intended to vote yes.

Rodriguez

SB 11 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Corte submitted the conference committee report on **SB 11**.

SB 11 - REMARKS

REPRESENTATIVE CORTE: Mr. Speaker, members, real quickly, I'm not going to go very long. I just want y'all to know that this is a good bill, it's a compromise, there's a lot of things that will help your first responders, and I move passage.

REPRESENTATIVE HERRERO: Thank you, Mr. Speaker. I want to thank Chairman Corte. I also want to thank Senator Corona, Senator Van De Putte, Senator Hinojosa's office, Senator Shapleigh's office for calling, and we've got the reassurances from everybody that the concerns that we have on the bill will be addressed, and I had raised a second point of order, and with those commitments, I withdrew my second point of order.

REPRESENTATIVE NORIEGA: Members, I'm going to ask everyone to vote for this, and the reason is that for some time throughout the session, we've dealt with the issue of homeland security, border security, and so forth, and in many instances, it's used often, not necessarily for the actual content of those things we're trying to do. There are many good things in this bill, but frequently, it's used in the political context. For a few weeks now, press releases have been issued saying that members were trying to block homeland security, border security, and so it's always been my notion that when it's convenient, those terms are thrown around liberally to incite fear for political purposes. I will tell you that there are some good things in this bill that need to be done. But I would invite, this next summer, to invite some of us that have been there—sign cuttings, scope truck work, sensors, drug seizures, human trafficking—I would invite those persons to join with us in the actual application of many of these measures. And so, members, instead of trying to divide this house on any kind of vote for political purposes, I would invite everyone to vote for **SB 11**.

BURNAM: I'll be brief. One, I want to say Chairman Corte worked with us in all honesty, but some of the things that came into this bill, as a result of the last couple of days, are simply unacceptable to me. One of which is giving authority to privately-controlled police forces to have the same authority that your public police forces have. I think that's wrong, I think it sets a bad precedent, and it endangers all of our civil liberties. I recognize that there's a lot of good things in this bill, but as you pass legislation like this, you also have the responsibility to recognize that we're endangering everyone's civil liberties with a half-dozen measures in this bill, and you're adding another tax.

Representative Corte moved to adopt the conference committee report on **SB 11**.

A record vote was requested.

The motion to adopt the conference committee report on **SB 11** prevailed by (Record 2023): 139 Yeas, 1 Nays, 3 Present, not voting.

Yeas — Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Castro; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton;

Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Nays — Burnam.

Present, not voting — Mr. Speaker; Moreno; Turner(C).

Absent, Excused — Allen; Chavez; Ritter.

Absent — Farrar; Garcia; Leibowitz; Oliveira.

STATEMENT OF VOTE

When Record No. 2023 was taken, I was in the house but away from my desk. I would have voted yes.

Leibowitz

NAMES ORDERED PRINTED

On motion of Representative Leibowitz, the names of Legislative Council attorneys advising the parliamentarians were ordered printed: Mark Brown, Gary Kansteiner, and Jeff Archer.

SCR 89 - ADOPTED (Bonnen - House Sponsor)

The following privileged resolution was laid before the house:

SCR 89, Instructing the enrolling clerk of the senate to make corrections in **SB 1604**.

SCR 89 was adopted.

HR 2905 - ADOPTED (by Bonnen)

Representative Bonnen moved to suspend Rule 8, Section 13 to take up and consider at this time **HR 2905**.

The motion prevailed.

The following privileged resolution was laid before the house:

HR 2905

BE IT RESOLVED by the House of Representatives of the State of Texas, 80th Legislature, Regular Session, 2007, That House Rule 13, Section 9(a), be suspended in part as provided by House Rule 13, Section 9(f), to enable the conference committee appointed to resolve the differences on **SB 12** (programs for the enhancement of air quality, including energy efficiency standards in state purchasing and energy consumption; providing penalties) to consider and take action on the following matters:

(1) House Rule 13, Sections 9(a)(3) and (4), are suspended to permit the committee to change the text of SECTION 1.05 of the bill by adding the following text at the end of Subsection (e), Section 382.213, Health and Safety Code:

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

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

(2) House Rule 13, Sections 9(a)(3) and (4), are suspended to permit the committee to change the text of SECTION 3.02 of the bill by adding a new Subsection (f), Section 388.005, Health and Safety Code, to read as follows:

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

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

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

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

HR 2905 was adopted.

SB 12 - RULES SUSPENDED

Representative Bonnen moved to suspend all necessary rules to consider the conference committee report on **SB 12**.

A record vote was requested.

The motion prevailed by (Record 2024): 140 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crossover; Darby; Davis, J.; Delisi; Deshotel; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Moreno; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Rodriguez; Rose; Smith, T.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker; Turner(C).

Absent, Excused — Allen; Chavez; Ritter.

Absent — Davis, Y.; Driver; Flores; Hamilton; Smith, W.

SB 12 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Bonnen submitted the conference committee report on **SB 12**.

Representative Bonnen moved to adopt the conference committee report on **SB 12**.

A record vote was requested.

The motion to adopt the conference committee report on **SB 12** prevailed by (Record 2025): 144 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crossover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Moreno; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla;

Raymond; Riddle; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker; Turner(C).

Absent, Excused — Allen; Chavez; Ritter.

Absent — Dutton.

SB 1951 - RULES SUSPENDED

Representative Hartnett moved to suspend all necessary rules to consider the conference committee report on **SB 1951**.

A record vote was requested.

The motion prevailed by (Record 2026): 145 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Moreno; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker; Turner(C).

Absent, Excused — Allen; Chavez; Ritter.

SB 1951 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Hartnett submitted the conference committee report on **SB 1951**.

Representative Hartnett moved to adopt the conference committee report on **SB 1951**.

A record vote was requested.

The motion to adopt the conference committee report on **SB 1951** prevailed by (Record 2027): 144 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Castro; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Moreno; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker; Turner(C).

Absent, Excused — Allen; Chavez; Ritter.

Absent — Burnam.

SB 23 - MOTION TO SUSPEND RULES

Representative Smithee moved to suspend all necessary rules to consider the conference committee report on **SB 23**.

SB 23 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE EILAND: I hope the members will listen, because we're fixing to kill this bill, Mr. Smithee. We had many bills that we actually put on this bill that passed the Insurance Committee, correct?

REPRESENTATIVE SMITHEE: That's right, and there were some concepts that really hadn't been bills, but they were ideas that we had listened to all session, like on balanced billing. You know the number one cause of bankruptcies today are medical bankruptcies, where people are driven to bankruptcy, and a lot of those people had insurance. They had bought insurance and they still went into bankruptcy. We had just some little pieces that would help those real people in a very real way.

EILAND: But also I had a bill on there which is one of the doctor's most important bills of the session, that would prevent health plans—HMOs, PPOs, and others—from trafficking in physician discounts. Taking discounts from physicians and selling them to people, or other entities, and reducing the physicians' income almost illegally, but certainly improperly, and that is off.

SMITHEE: That's off, and you know, that was just a common-sense thing that would have increased the fairness of the system, and as you know, we've looked at this before. We've been, basically, absorbed in managed care now for 12-15

years in Texas. The promises of reducing costs just haven't happened, and the quality of care has suffered, and we've got to find a better way to do this.

EILAND: And I believe, for example, on Mr. Gallego's amendment that would get amputees, people that lost limbs, would make sure that they had access to get new replacement parts, it costs, like 12 cents a month.

SMITHEE: It was a negligible cost, and Mr. Taylor's responsible for a lot of that. I know that you worked with him to try to narrow this down to where only the very neediest would be affected, and—

EILAND: And the reason I fought is because the governor said if there's any amendment on the bill, he would veto it, and the senate would not accept any amendments.

SMITHEE: That's right.

REMARKS ORDERED PRINTED

Representative Eiland moved to print remarks between Representative Smithee and Representative Eiland.

The motion prevailed.

A record vote was requested.

The motion to suspend rules in order to consider the conference committee report on **SB 23** was lost by (Record 2028): 2 Yeas, 137 Nays, 3 Present, not voting.

Yeas — Corte; Jackson.

Nays — Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jones; Keffer; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Moreno; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Riddle; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Taylor; Thompson; Truitt; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker; Hartnett; Turner(C).

Absent, Excused — Allen; Chavez; Ritter.

Absent — Deshotel; King, P.; Peña; Pierson; Talton.

REMARKS ORDERED PRINTED

Representative Burnam moved to print remarks regarding **SB 11**.

The motion prevailed.

HB 3693 - RULES SUSPENDED

Representative Straus moved to suspend all necessary rules to consider the conference committee report on **HB 3693**.

A record vote was requested.

The motion prevailed by (Record 2029): 129 Yeas, 1 Nays, 3 Present, not voting.

Yeas — Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Castro; Chisum; Christian; Cohen; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Driver; Dukes; Dunnam; Dutton; Eissler; Elkins; England; Farabee; Farias; Farrar; Flores; Flynn; Frost; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Haggerty; Hamilton; Hancock; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, D.; Hughes; Isett; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Mallory Caraway; Martinez; Martinez Fischer; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Rodriguez; Rose; Smith, T.; Smithee; Solomons; Strama; Straus; Swinford; Taylor; Thompson; Truitt; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Nays — Gallego.

Present, not voting — Mr. Speaker; Eiland; Turner(C).

Absent, Excused — Allen; Chavez; Ritter.

Absent — Burnam; Coleman; Deshotel; Escobar; Guillen; Hardcastle; Howard, C.; Jackson; Madden; McCall; Moreno; Peña; Smith, W.; Talton.

STATEMENT OF VOTE

I was shown voting no on Record No. 2029. I intended to vote yes.

Gallego

HB 3693 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Straus submitted the following conference committee report on **HB 3693**:

Austin, Texas, May 26, 2007

The Honorable David Dewhurst
President of the Senate

The Honorable Tom Craddick
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 3693** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Fraser

Estes

Seliger

Shapiro

Van de Putte

On the part of the senate

Straus

Crabb

Anchia

P. King

Talton

On the part of the house

HB 3693, A bill to be entitled An Act relating to energy demand, energy load, energy efficiency incentives, energy programs, and energy performance measures.

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

SECTION 1. Subchapter Z, Chapter 44, Education Code, is amended by adding Section 44.902 to read as follows:

Sec. 44.902. GOAL TO REDUCE CONSUMPTION OF ELECTRIC ENERGY. The board of trustees of a school district shall establish a goal to reduce the school district's annual electric consumption by five percent each state fiscal year for six years beginning September 1, 2007.

SECTION 2. Subchapter Z, Chapter 44, Education Code, is amended by adding Section 44.903 to read as follows:

Sec. 44.903. ENERGY-EFFICIENT LIGHT BULBS IN INSTRUCTIONAL FACILITIES. (a) In this section, "instructional facility" has the meaning assigned by Section 46.001.

(b) A school district shall purchase for use in each type of light fixture in an instructional facility the commercially available model of light bulb that:

(1) uses the fewest watts for the necessary luminous flux or light output;

(2) is compatible with the light fixture; and

(3) is the most cost-effective, considering the factors described by Subdivisions (1) and (2).

SECTION 3. Subchapter Z, Chapter 51, Education Code, is amended by adding Section 51.9271 to read as follows:

Sec. 51.9271. ENERGY-EFFICIENT LIGHT BULBS IN EDUCATIONAL AND HOUSING FACILITIES. (a) In this section, "housing facility" has the meaning assigned by Section 53.02.

(b) An institution of higher education shall purchase for use in each type of light fixture in an educational or housing facility the commercially available model of light bulb that:

(1) is compatible with the light fixture;

(2) uses the fewest watts for the necessary luminous flux or light output; and

(3) is the most cost-effective, considering the factors described by Subdivisions (1) and (2).

SECTION 4. Section 2155.068(d), Government Code, is amended to read as follows:

(d) As part of the standards and specifications program, the commission shall:

(1) review contracts for opportunities to recycle waste produced at state buildings;

(2) develop and update a list of equipment and appliances that meet the energy efficiency standards provided by Section 2158.301; and

(3) assist state agencies in selecting products under Section 2158.301, as appropriate.

SECTION 5. Chapter 2158, Government Code, is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. ENERGY AND EFFICIENCY STANDARDS FOR
EQUIPMENT AND APPLIANCES

Sec. 2158.301. ENERGY CONSERVATION. If available and cost-effective, a state agency shall purchase equipment and appliances for state use that meet or exceed:

(1) the federal energy conservation standards under Section 325, Energy Policy and Conservation Act (42 U.S.C. Section 6295), or a federal regulation adopted under that Act; or

(2) the federal Energy Star standards designated by the United States Environmental Protection Agency and the United States Department of Energy.

SECTION 6. Subchapter A, Chapter 2165, Government Code, is amended by adding Section 2165.008 to read as follows:

Sec. 2165.008. ENERGY-EFFICIENT LIGHT BULBS IN STATE BUILDINGS. A state agency or institution of higher education in charge and control of a state building shall purchase for use in each type of light fixture in the building the commercially available model of light bulb that:

(1) uses the fewest watts for the necessary luminous flux or light output; and

(2) is compatible with the light fixture.

SECTION 7. Subchapter B, Chapter 2165, Government Code, is amended by adding Section 2165.058 to read as follows:

Sec. 2165.058. VENDING MACHINES; ENERGY-SAVING DEVICE REQUIRED. (a) This section does not apply to a vending machine that contains a perishable food product, as defined by Section 96.001, Civil Practice and Remedies Code.

(b) The commission shall require an entity that owns or operates a vending machine located in a building owned or leased by the state to activate and maintain any internal energy-saving or energy-management device or option that is already part of the machine or contained in the machine.

(c) The commission shall require the use of an external energy-saving or energy-management device for each vending machine that:

(1) is located in a building owned or leased by the state;

(2) operates with a compressor; and

(3) does not have an activated and operational internal energy-saving or energy-management device or option.

(d) An entity that owns or operates a vending machine subject to this section is responsible for any expenses associated with the acquisition, installation, or maintenance of an energy-saving device required by this section.

(e) The commission may impose an administrative fine on an entity that operates a vending machine subject to this section in an amount not to exceed \$250 a year for each machine found to be in violation of this section or rules adopted by the commission under this section.

(f) The commission shall adopt rules relating to the specifications for and regulation of energy-saving devices required by this section.

SECTION 8. Subtitle F, Title 10, Government Code, is amended by adding Chapter 2264 to read as follows:

CHAPTER 2264. REQUIRED PUBLICATION AND REPORTING BY
GOVERNMENTAL ENTITIES

Sec. 2264.001. RECORDING AND REPORTING OF ELECTRICITY, WATER, AND NATURAL GAS CONSUMPTION. (a) In this section, "governmental entity" means:

(1) a board, commission, or department of the state or a political subdivision of the state, including a municipality, a county, or any kind of district; or

(2) an institution of higher education as defined by Section 61.003, Education Code.

(b) Notwithstanding any other law, a governmental entity responsible for payments for electric, water, or natural gas utility services shall record in an electronic repository the governmental entity's metered amount of electricity, water, or natural gas consumed for which it is responsible to pay and the aggregate costs for those utility services. The governmental entity shall report the recorded information on a publicly accessible Internet website with an interface designed for ease of navigation if available, or at another publicly accessible location.

SECTION 9. Subchapter H, Chapter 2306, Government Code, is amended by adding Section 2306.187 to read as follows:

Sec. 2306.187. ENERGY EFFICIENCY STANDARDS FOR CERTAIN SINGLE AND MULTIFAMILY DWELLINGS. (a) A newly constructed single or multifamily dwelling that is constructed with assistance awarded by the department, including state or federal money, housing tax credits, or multifamily bond financing, must include energy conservation and efficiency measures specified by the department. The department by rule shall establish a minimum level of energy efficiency measures that must be included in a newly constructed single or multifamily dwelling as a condition of eligibility to receive assistance awarded by the department for housing construction. The measures adopted by the department may include:

(1) the installation of Energy Star-labeled ceiling fans in living areas and bedrooms;

- (2) the installation of Energy Star-labeled appliances;
- (3) the installation of Energy Star-labeled lighting in all interior units;
- (4) the installation of Energy Star-labeled ventilation equipment, including power-vented fans, range hoods, and bathroom fans;
- (5) the use of energy efficient alternative construction material, including structural insulated panel construction;
- (6) the installation of central air conditioning or heat pump equipment with a better Seasonal Energy Efficiency Rating (SEER) than that required by the energy code adopted under Section 388.003, Health and Safety Code; and
- (7) the installation of the air ducting system inside the conditioned space.

(b) A single or multifamily dwelling must include energy conservation and efficiency measures specified by the department if:

(1) the dwelling is rehabilitated with assistance awarded by the department, including state or federal money, housing tax credits, or multifamily bond financing; and

(2) any portion of the rehabilitation includes alterations that will replace items that are identified as required efficiency measures by the department.

(c) The energy conservation and efficiency measures the department requires under Subsection (b) may not be more stringent than the measures the department requires under Subsection (a).

(d) The department shall review the measures required to meet the energy efficiency standards at least annually to determine if additional measures are desirable and to ensure that the most recent energy efficiency technology is considered.

(e) Subsections (a) and (b) do not apply to a single or multifamily dwelling that receives weatherization assistance money from the department or money provided under the first-time homebuyer program.

SECTION 10. Section 301.038, Health and Safety Code, is amended to read as follows:

Sec. 301.038. PROVISION [COST] OF SERVICES; COSTS. (a) A cooperative association may provide services from a system to eligible institutions and may determine the amount to be charged for providing the services.

(b) Notwithstanding Sections 301.032 and 301.037, a cooperative association may provide from a system central heating and cooling services, including steam and heated and chilled water supply, to persons other than eligible institutions and may determine the amount to be charged for providing services.

SECTION 11. Section 388.003, Health and Safety Code, is amended by adding Subsections (b-1), (b-2), and (b-3) to read as follows:

(b-1) If the State Energy Conservation Office determines, based on written recommendations from the laboratory, that the energy efficiency provisions of the latest published editions of the International Residential Code or the International Energy Conservation Code for residential or commercial energy efficiency and air quality are equivalent to or more stringent than the provisions of editions

adopted under Subsection (a) or (b), the office by rule may adopt and substitute in the energy code the equivalent or more stringent editions for of the initial editions described by Subsection (a) or (b). If the State Energy Conservation Office adopts the latest published editions of the International Residential Code or the International Energy Conservation Code into the energy code, the office shall establish an effective date for the new editions that is not earlier than nine months after the date of adoption. The laboratory shall submit recommendations concerning the latest published editions of the International Residential Code or the International Energy Conservation Code not later than six months after publication of new editions.

(b-2) The State Energy Conservation Office by rule shall establish a procedure for allowing an opportunity for persons who have an interest in the adoption of energy efficiency codes under Subsection (b-1) to comment on a code considered for adoption, including:

- (1) commercial and residential builders;
- (2) architects;
- (3) engineers;
- (4) county and other local government authorities; and
- (5) environmental groups.

(b-3) In developing written recommendations under Subsection (b-1), the laboratory shall consider the comments submitted under Subsection (b-2).

SECTION 12. Section 388.005, Health and Safety Code, is amended to read as follows:

Sec. 388.005. ENERGY EFFICIENCY PROGRAMS IN CERTAIN GOVERNMENTAL ENTITIES ~~[POLITICAL SUBDIVISIONS]~~. (a) In this section:

(1) "Institution of higher education" includes an institution of higher education as defined by Section 61.003, Education Code, and a private institution of higher education that receives funding from the state.

(2) "Political[, "political] subdivision" means:

(A) ~~[(A)]~~ an affected county; or

(B) ~~[(B)]~~ any political subdivision in a nonattainment area or in an affected county other than:

(i) ~~[(A)]~~ a school district; or

(ii) ~~[(B)]~~ a district as defined by Section 36.001 or 49.001, Water Code, that had a total annual electricity expense of less than \$200,000 in the previous fiscal year of the district.

(3) "State agency" means a department, commission, board, office, council, or other agency in the executive branch of state government that is created by the constitution or a statute of this state and has authority not limited to a geographical portion of the state.

(b) Each political subdivision, institution of higher education, or state agency shall implement all energy efficiency measures that meet the standards established for a contract for energy conservation measures under Section 302.004(b), Local Government Code, in order to reduce electricity consumption by the existing facilities of the entity ~~[the political subdivision]~~.

(c) Each political subdivision, institution of higher education, or state agency shall establish a goal to reduce the electric consumption by the entity ~~[political subdivision]~~ by five percent each state fiscal year for six ~~[five]~~ years, beginning September 1, 2007 ~~[January 1, 2002]~~.

(d) A political subdivision, institution of higher education, or state agency that does not attain the goals under Subsection (c) must include in the report required by Subsection (e) justification that the entity ~~[political subdivision]~~ has already implemented all available measures.

(e) A political subdivision, institution of higher education, or state agency annually shall report to the State Energy Conservation Office, on forms provided by that office, regarding the entity's ~~[political subdivision's]~~ efforts and progress under this section. The State Energy Conservation Office shall provide assistance and information to the entity ~~[political subdivisions]~~ to help the entity ~~[the political subdivisions]~~ meet the goals set under this section.

(f) This section does not apply to a state agency or an institution of higher education that the State Energy Conservation Office determines that, before September 1, 2007, adopted a plan for conserving energy under which the agency or institution established a percentage goal for reducing the consumption of electricity. The exemption provided by this section applies only while the agency or institution has an energy conservation plan in effect and only if the agency or institution submits reports on the conservation plan each calendar quarter to the governor, the Legislative Budget Board, and the State Energy Conservation Office.

SECTION 13. Section 388.008, Health and Safety Code, is amended by amending Subsections (a) and (c) and adding Subsection (d) to read as follows:

(a) The laboratory shall develop a standardized report format to be used by providers of home energy ratings. The laboratory may develop different report formats for rating newly constructed residences from those for existing residences. The form must be designed to give potential buyers information on a structure's energy performance, including:

- (1) insulation;
- (2) types of windows;
- (3) heating and cooling equipment;
- (4) water heating equipment;
- (5) additional energy conserving features, if any;
- (6) results of performance measurements of building tightness and forced air distribution; and

(7) an overall rating of probable energy efficiency relative to the minimum requirements of the International Energy Conservation Code or the energy efficiency chapter of the International Residential Code, as appropriate.

(c) The laboratory may cooperate with an industry organization or trade association to:

- (1) develop guidelines for home energy ratings;
- (2) provide training for individuals performing home energy ratings and providers of home energy ratings; and

(3) provide a registry of completed ratings for newly constructed residences and residential improvement projects for the purpose of computing the energy savings and emissions reductions benefits of the ~~the~~ home energy ratings program ~~[shall be implemented by September 1, 2002]~~.

(d) The laboratory shall include information on the benefits attained from this program in an annual report to the commission.

SECTION 14. The heading to Section 74.3013, Property Code, is amended to read as follows:

Sec. 74.3013. DELIVERY OF MONEY FOR RURAL SCHOLARSHIP, ~~AND~~ ECONOMIC DEVELOPMENT, AND ENERGY EFFICIENCY ASSISTANCE.

SECTION 15. Sections 74.3013(a), (b), (e), (f), and (g), Property Code, are amended to read as follows:

(a) Notwithstanding and in addition to any other provision of this chapter or other law, a nonprofit cooperative corporation may deliver reported money to a scholarship fund for rural students, ~~or~~ to stimulate rural economic development, or to provide energy efficiency assistance to members of electric cooperatives, instead of delivering the money to the comptroller as prescribed in Section 74.301.

(b) A nonprofit cooperative corporation may deliver the money under this section only:

(1) to a scholarship fund established by one or more nonprofit cooperative corporations in this state to enable students from rural areas to attend college, technical school, or other postsecondary educational institution; ~~and~~

(2) to an economic development fund for the stimulation and improvement of business and commercial activity for economic development in rural communities; and

(3) to an energy efficiency assistance fund to assist members of an electric cooperative in reducing their energy consumption and electricity bills.

(e) The comptroller shall prescribe forms and procedures governing this section, including forms and procedures relating to:

(1) notice of presumed abandoned property;

(2) delivery of reported money to a scholarship, ~~or~~ economic development fund, or energy efficiency assistance fund;

(3) filing of a claim; and

(4) procedures to allow equitable opportunity for participation by each nonprofit cooperative corporation in the state.

(f) During a state fiscal year the total amount of money that may be transferred by all nonprofit cooperative corporations under this section may not exceed \$2 ~~[\$1]~~ million. No more than 20 percent of each nonprofit cooperative's funds eligible for delivery under this section shall be used for economic development. The comptroller shall adopt procedures to record the total amount of money transferred annually ~~[to allow equitable opportunity for participation with preference given to corporations already providing similar scholarship opportunities in other states]~~.

(g) Nonprofit cooperative corporations may combine [~~economic development~~] funds from other sources with any [~~economic development~~] funds delivered under this section. In addition, such cooperatives may engage in other business and commercial activities, in their own behalf or through such subsidiaries and affiliates as deemed necessary, in order to provide and promote educational opportunities and to stimulate rural economic development.

SECTION 16. Subchapter H, Chapter 151, Tax Code, is amended by adding Section 151.333 to read as follows:

Sec. 151.333. ENERGY-EFFICIENT PRODUCTS. (a) In this section, "energy-efficient product" means a product that has been designated as an Energy Star qualified product under the Energy Star program jointly operated by the United States Environmental Protection Agency and the United States Department of Energy.

(b) This section applies only to the following energy-efficient products:

- (1) an air conditioner the sales price of which does not exceed \$6,000;
- (2) a clothes washer;
- (3) a ceiling fan;
- (4) a dehumidifier;
- (5) a dishwasher;
- (6) an incandescent or fluorescent lightbulb;
- (7) a programmable thermostat; and
- (8) a refrigerator the sales price of which does not exceed \$2,000.

(c) The sale of an energy-efficient product to which this section applies is exempted from the taxes imposed by this chapter if the sale takes place during a period beginning at 12:01 a.m. on the Saturday preceding the last Monday in May (Memorial Day) and ending at 11:59 p.m. on the last Monday in May.

SECTION 17. Subchapter A, Chapter 313, Tax Code, is amended by adding Section 313.008 to read as follows:

Sec. 313.008. REPORT ON COMPLIANCE WITH ENERGY-RELATED AGREEMENTS. (a) Before the beginning of each regular session of the legislature, the comptroller shall submit to the lieutenant governor, the speaker of the house of representatives, and each member of the legislature a report assessing the progress of each agreement entered into under this chapter utilizing data certified by agreement recipients, on each agreement entered into under this chapter involving energy-related projects, including wind generation, ethanol production, liquefied natural gas terminals, low sulfur diesel production, refinery cogeneration, and nuclear energy production. The report must state for each agreement:

- (1) the number of qualifying jobs each recipient of a limitation on appraised value committed to create;
- (2) the number of qualifying jobs each recipient created;
- (3) the median wage of the new jobs each recipient created;
- (4) the amount of the qualified investment each recipient committed to expend or allocate per project;
- (5) the amount of the qualified investment each recipient expended or allocated per project;

(6) the market value of the qualified property of each recipient as established by the local appraiser;

(7) the limitation on appraised value for the qualified property of each recipient;

(8) the dollar amount of the ad valorem taxes that would have been imposed on the market value of the qualified property;

(9) the dollar amount of the ad valorem taxes imposed on the qualified property;

(10) the number of new jobs created by each recipient in each sector of the North American Industry Classification System (NAICS); and

(11) of the number of new jobs each recipient created, the number of positions created that provide health benefits for employees.

(b) The report may not include information that is made confidential by law.

(c) The comptroller may require a recipient to submit, on a form provided by the comptroller, information required to complete the report.

SECTION 18. Section 31.004, Utilities Code, is amended by adding Subsection (c) to read as follows:

(c) The commission shall provide information to school districts regarding how a school district may finance the installation of solar electric generation panels for school district buildings.

SECTION 19. Section 39.002, Utilities Code, is amended to read as follows:

Sec. 39.002. APPLICABILITY. This chapter, other than Sections 39.155, 39.157(e), 39.203, 39.903, ~~[and]~~ 39.904, 39.9051, 39.9052, and 39.914(e), does not apply to a municipally owned utility or an electric cooperative. Sections 39.157(e), 39.203, and 39.904, however, apply only to a municipally owned utility or an electric cooperative that is offering customer choice. If there is a conflict between the specific provisions of this chapter and any other provisions of this title, except for Chapters 40 and 41, the provisions of this chapter control.

SECTION 20. Section 39.107, Utilities Code, is amended by adding Subsection (i) to read as follows:

(i) Subject to the restrictions in Subsection (h), it is the intent of the legislature that net metering and advanced meter information networks be deployed as rapidly as possible to allow customers to better manage energy use and control costs, and to facilitate demand response initiatives.

SECTION 21. Subchapter Z, Chapter 39, Utilities Code, is amended by adding Section 39.9025 to read as follows:

Sec. 39.9025. HOME ELECTRIC ENERGY REPORTS. The commission may encourage retail electric providers to deliver individualized home electric energy reports to educate consumers about electric energy use and energy efficiency to assist consumers to use energy more efficiently.

SECTION 22. Section 39.905, Utilities Code, is amended by amending Subsections (a), (b), (d), (e), and (f) and adding Subsections (b-1), (b-2), (b-3), (b-4), and (g) to read as follows:

(a) It is the goal of the legislature that:

(1) electric utilities will administer energy efficiency ~~[savings]~~ incentive programs in a market-neutral, nondiscriminatory manner but will not offer underlying competitive services;

(2) all customers, in all customer classes, will have a choice of and access to energy efficiency alternatives and other choices from the market that allow each customer to reduce energy consumption, peak demand, or energy costs; ~~[and]~~

(3) each electric utility will provide, through market-based standard offer programs or limited, targeted, market-transformation programs, incentives sufficient for retail electric providers and competitive energy service providers to acquire additional cost-effective energy efficiency for residential and commercial customers equivalent to at least:

(A) 10 percent of the electric utility's annual growth in demand of residential and commercial customers by December 31, 2007;

(B) 15 percent of the electric utility's annual growth in demand of residential and commercial customers by December 31, 2008, provided that the electric utility's program expenditures for 2008 funding may not be greater than 75 percent above the utility's program budget for 2007 for residential and commercial customers, as included in the April 1, 2006, filing; and

(C) 20 percent of the electric utility's annual growth in demand of residential and commercial customers by December 31, 2009, provided that the electric utility's program expenditures for 2009 funding may not be greater than 150 percent above the utility's program budget for 2007 for residential and commercial customers, as included in the April 1, 2006, filing;

(4) each electric utility in the ERCOT region shall use its best efforts to encourage and facilitate the involvement of the region's retail electric providers in the delivery of efficiency programs and demand response programs under this section;

(5) retail electric providers in the ERCOT region, and electric utilities outside of the ERCOT region, shall provide customers with energy efficiency educational materials; and

(6) notwithstanding Subsection (a)(3), electric utilities shall continue to make available, at 2007 funding and participation levels, any load management standard offer programs developed for industrial customers and implemented prior to May 1, 2007.

(b) The commission shall provide oversight and adopt rules and procedures~~[-as necessary,]~~ to ensure that the utilities can achieve the goal of this section, including:

(1) establishing an energy efficiency cost recovery factor for ensuring timely and reasonable cost recovery for utility expenditures made to satisfy the goal of this section;

(2) establishing an incentive under Section 36.204 to reward utilities administering programs under this section that exceed the minimum goals established by this section;

(3) providing a utility that is unable to establish an energy efficiency cost recovery factor in a timely manner due to a rate freeze with a mechanism to enable the utility to:

(A) defer the costs of complying with this section; and

(B) recover the deferred costs through an energy efficiency cost recovery factor on the expiration of the rate freeze period;

(4) ensuring that the costs associated with programs provided under this section are borne by the customer classes that receive the services under the programs; and

(5) ensuring the program rules encourage the value of the incentives to be passed on to the end-use customer.

(b-1) The energy efficiency cost recovery factor under Subsection (b)(1) may not result in an over-recovery of costs but may be adjusted each year to change rates to enable utilities to match revenues against energy efficiency costs and any incentives to which they are granted. The factor shall be adjusted to reflect any over-collection or under-collection of energy efficiency cost recovery revenues in previous years.

(b-2) The commission shall conduct a study, to be funded by electric utilities, regarding cost-effective energy efficiency in this state. Not later than January 15, 2009, the commission shall submit to the legislature a report regarding the commission's findings that:

(1) considers the technical, economic, and achievable potential, and natural occurrence of energy efficiency in this state in terms of kilowatts and kilowatt hours for each element;

(2) determines the amount of savings that is achievable through utility programs in compliance with commission rules;

(3) recommends whether:

(A) utility funding of energy efficiency in areas of the state with competitive retail electric service should continue;

(B) energy efficiency in areas with competitive retail electric service is best provided by the competitive market; and

(C) utilities should fund education programs to be conducted by the commission regarding the provision of energy efficiency service from the competitive market;

(4) provides estimates of achievable savings specific to each utility service area and each customer class;

(5) quantifies the costs and rate impacts associated with meeting energy efficiency goals;

(6) determines whether an increase in the goal to 30 percent of the growth in demand for each utility is achievable by December 31, 2010, and whether an increase in the goal to 50 percent of the growth in demand for electricity is achievable by December 31, 2015, by each utility in the service area served through the energy efficiency programs described by this section;

(7) recommends policies designed to promote energy efficiency in the areas of the state that are not served by the utilities which administer programs under this section; and

(8) identifies potential barriers to the increased participation by retail electric providers in the delivery of energy efficiency services to ERCOT customers, and to the increased potential for energy efficiency in ERCOT or in this state generally, including any recommended regulatory or statutory changes to eliminate such barriers or facilitate greater efficiency.

(b-3) Beginning not later than January 1, 2008, the commission, in consultation with the State Energy Conservation Office, annually for a period of five years shall compute and report to ERCOT the projected energy savings and demand impacts for each entity in the ERCOT region that administers standard offer programs, market transformation programs, combined heating and power technology, demand response programs, solar incentive programs, appliance efficiency standards, energy efficiency programs in public buildings, and any other relevant programs that are reasonably anticipated to reduce electricity energy or peak demand or that serve as substitutes for electric supply.

(b-4) The commission and ERCOT shall develop a method to account for the projected efficiency impacts under Subsection (b-3) in ERCOT's annual forecasts of future capacity, demand, and reserves.

(d) The commission shall establish a procedure for reviewing and evaluating market-transformation program options described by this subsection and other options. In evaluating program options, the commission may consider the ability of a program option to reduce costs to customers through reduced demand, energy savings, and relief of congestion. Utilities ~~[adopt the following market transformation program options that the utilities]~~ may choose to implement any program option approved by the commission after its evaluation in order to satisfy the goal in Subsection (a), including ~~[(a)(3)]~~:

- (1) energy-smart schools;
- (2) appliance retirement and recycling;
- (3) air conditioning system tune-ups; ~~and~~
- (4) the use of trees or other landscaping for energy efficiency;
- (5) customer energy management and demand response programs;
- (6) high performance residential and commercial buildings that will

achieve the levels of energy efficiency sufficient to qualify those buildings for federal tax incentives;

(7) programs for customers who rent or lease their residence or commercial space;

(8) programs providing energy monitoring equipment to customers that enable a customer to better understand the amount, price, and time of the customer's energy use;

(9) energy audit programs for owners and other residents of single-family or multifamily residences and for small commercial customers;

(10) net-zero energy new home programs;

(11) solar thermal or solar electric programs; and

(12) programs for using windows and other glazing systems, glass doors, and skylights in residential and commercial buildings that reduce solar gain by at least 30 percent from the level established for the federal Energy Star windows program.

(e) An electric utility may use money approved by the commission for energy efficiency programs to perform necessary energy efficiency research and development to foster continuous improvement and innovation in the application of energy efficiency technology and energy efficiency program design and implementation. Money the utility uses under this subsection may not exceed 10 percent of the greater of:

(1) the amount the commission approved for energy efficiency programs in the utility's most recent full rate proceeding; or

(2) the commission-approved expenditures by the utility for energy efficiency in the previous year.

(f) Unless funding is provided under Section 39.903, ~~[beginning January 1, 2006,]~~ each unbundled transmission and distribution utility shall include in its energy efficiency plan a targeted low-income energy efficiency program as described by Section 39.903(f)(2), and the savings achieved by the program shall count toward the transmission and distribution utility's energy efficiency goal. The commission shall determine the appropriate level of funding to be allocated to both targeted and standard offer low-income energy efficiency programs in each unbundled transmission and distribution utility service area. The total expenditures for both targeted and standard offer low-income energy efficiency programs will be based on the amount spent by the transmission and distribution utility on the commission's hard-to-reach program in calendar year 2003. This level of funding for low-income energy efficiency programs shall be provided from money approved by the commission for the transmission and distribution utility's energy efficiency programs. The state agency that administers the federal weatherization assistance program shall provide reports as required by the commission to provide the most current information available on energy and peak demand savings achieved in each transmission and distribution utility service area.

(g) The commission may provide for a good cause exemption to a utility's liability for an administrative penalty or other sanction if the utility fails to meet a goal for energy efficiency under this section and the utility's failure to meet the goal is caused by one or more factors outside of the utility's control, including:

(1) insufficient demand by retail electric providers and competitive energy service providers for program incentive funds made available by the utility through its programs;

(2) changes in building energy codes; and

(3) changes in government-imposed appliance or equipment efficiency standards.

SECTION 23. Subchapter Z, Chapter 39, Utilities Code, is amended by adding Sections 39.9051, 39.9052, 39.911, 39.912, and 39.913 to read as follows:

Sec. 39.9051. ENERGY EFFICIENCY FOR MUNICIPALLY OWNED UTILITIES. (a) In this section, "municipally owned utility" has the meaning assigned by Section 11.003.

(b) This section applies only to a municipally owned utility that had retail sales of more than 500,000 megawatt hours in 2005.

(c) It is the goal of the legislature that:

(1) municipally owned utilities will administer energy savings incentive programs;

(2) customers of a municipally owned utility will have a choice of and access to energy efficiency alternatives that allow customers to reduce energy consumption, peak demand, or energy costs; and

(3) each municipally owned utility will provide incentives sufficient for municipally owned utilities to acquire additional cost-effective energy efficiency.

(d) The governing body of a municipally owned utility shall provide oversight and adopt rules and procedures, as necessary, to ensure that the utility can achieve the goal of this section.

(e) If a municipally owned utility adopts customer choice by decision of the governing body under Chapter 40, the commission shall provide oversight and adopt rules and procedures, as necessary, to ensure that the municipally owned utility can achieve the goal in this section in a market-neutral, nondiscriminatory manner. The commission shall, to the extent possible, include existing energy efficiency programs already adopted by the municipally owned utility.

(f) Not later than September 1, 2009, a municipally owned utility must report to the State Energy Conservation Office, in a form and manner determined by the utility in consultation with the office, information regarding the combined effects of the energy efficiency activities of the utility.

Sec. 39.9052. ENERGY EFFICIENCY FOR ELECTRIC COOPERATIVES. (a) An electric cooperative shall consider adopting and implementing energy efficiency programs that reduce the cooperative's annual growth in demand in a manner consistent with standards established in the state for other utilities.

(b) Not later than September 1, 2009, an electric cooperative that had retail sales of more than 500,000 megawatt hours in 2005 must report to the State Energy Conservation Office, in a form and manner determined by the electric cooperative in consultation with the office, information regarding the combined effects of the energy efficiency activities of the electric cooperative.

Sec. 39.911. ALTERNATIVE FUNDING FOR ENERGY EFFICIENCY AND RENEWABLE ENERGY SYSTEMS. The State Energy Conservation Office, in coordination with the governor, the Department of Agriculture, the Texas Commission on Environmental Quality, the Texas Education Agency, the commission, and other appropriate state agencies, shall solicit gifts, grants, and other financial resources available to fund energy efficiency improvements and renewable energy systems for public and private facilities in this state.

Sec. 39.912. REPORT ON COMBINED HEATING AND POWER TECHNOLOGY. The commission shall study the installation and use of combined heating and power technology in this state, and shall submit a report regarding the commission's findings to the 81st Legislature. The report shall include:

(1) an explanation describing combined heating and power technology and its use; and

(2) an explanation of how combined heating and power technology can be implemented in this state to meet energy efficiency goals.

Sec. 39.913. COMBINING CERTAIN REPORTS. The commission may combine the reports required under Sections 39.905(b-2) and 39.912.

SECTION 24. Subchapter Z, Chapter 39, Utilities Code, is amended by adding Section 39.914 to read as follows:

Sec. 39.914. CREDIT FOR SURPLUS SOLAR GENERATION BY PUBLIC SCHOOLS. (a) An electric utility or retail electric provider shall provide for net metering and contract with an independent school district so that:

(1) surplus electricity produced by a school building's solar electric generation panels is made available for sale to the electric transmission grid and distribution system; and

(2) the net value of that surplus electricity is credited to the district.

(b) For areas of this state in which customer choice has not been introduced, the commission by rule shall require that credits for electricity produced by a school building's solar electric generation panels reflect the value of the electricity that is made available for sale to the electric utility in accordance with federal regulations.

(c) For independent school districts in areas in which customer choice has been introduced, the district must sell the school buildings' surplus electricity produced to the retail electric provider that serves the school district's load at a value agreed to between the district and the provider that serves the district's load. The agreed value may be based on the clearing price of energy at the time of day that the electricity is made available to the grid. The independent organization identified in Section 39.151 shall develop procedures so that the amount of electricity purchased from a district under this section is accounted for in settling the total load served by the provider that serves the district's load. A district requesting net metering services for purposes of this section must have metering devices capable of providing measurements consistent with the independent organization's settlement requirements.

(d) A transmission and distribution utility shall make available to an independent school district for purposes of this section metering required for services provided under this section, including separate meters that measure the load and generator output or a single meter capable of measuring separately in-flow and out-flow at the point of common coupling meter point. The district must pay the differential cost of the metering unless the meters are provided at no additional cost. Except as provided by this section, Section 39.107 applies to metering under this section.

(e) A municipally owned utility or electric cooperative shall consider and complete the determinations regarding net metering service as provided by the federal Public Utility Regulatory Policies Act of 1978 (16 U.S.C. Section 2601 et seq., as amended by the federal Energy Policy Act of 2005 (Pub. L. No. 109-58)) after proceedings conducted in accordance with that law. A municipally owned utility or electric cooperative shall report the determinations made under this subsection to the State Energy Conservation Office and include in that report information regarding metering electricity generated by solar panels on public school building rooftops.

SECTION 25. Subchapter Z, Chapter 39, Utilities Code, is amended by adding Section 39.915 to read as follows:

Sec. 39.915. CONSIDERATION AND APPROVAL OF CERTAIN TRANSACTIONS. (a) To protect retail customers in this state, and to ensure the continuation of cost-effective energy efficiency measures and delivery systems, notwithstanding any other provision of this title, an electric utility or transmission and distribution utility must report to and obtain approval of the commission before closing any transaction in which:

(1) the electric utility or transmission and distribution utility will be merged or consolidated with another electric utility or transmission and distribution utility;

(2) at least 50 percent of the stock of the electric utility or transmission and distribution utility will be transferred or sold; or

(3) a controlling interest or operational control of the electric utility or transmission and distribution utility will be transferred.

(b) The commission shall approve a transaction under Subsection (a) if the commission finds that the transaction is in the public interest. In making its determination, the commission shall consider whether the transaction will adversely affect the reliability of service, availability of service, or cost of service of the electric utility or transmission and distribution utility. The commission shall make the determination concerning a transaction under this subsection not later than the 180th day after the date the commission receives the relevant report. If the commission has not made a determination before the 181st day after that date, the transaction is considered approved.

(c) Subsections (a) and (b) do not apply to a transaction described by Subsection (a) for which a definitive agreement was executed before April 1, 2007, if an electric utility or transmission and distribution utility or a person seeking to acquire or merge with an electric utility or transmission and distribution utility made a filing for review of the transaction under Section 14.101 before May 1, 2007, and the resulting proceeding was not withdrawn.

(d) If an electric utility or transmission and distribution utility or a person seeking to acquire or merge with an electric utility or transmission and distribution utility files with the commission a stipulation, representation, or commitment in advance of or as part of a filing under this section or under Section 14.101, the commission may enforce the stipulation, representation, or commitment to the extent that the stipulation, representation, or commitment is consistent with the standards provided by this section and Section 14.101. The commission may reasonably interpret and enforce conditions adopted under this section.

SECTION 26. Subchapter Z, Chapter 39, Utilities Code, is amended by adding Section 39.916 to read as follows:

Sec. 39.916. INTERCONNECTION OF DISTRIBUTED RENEWABLE GENERATION. (a) In this section:

(1) "Distributed renewable generation" means electric generation with a capacity of not more than 2,000 kilowatts provided by a renewable energy technology, as defined by Section 39.904, that is installed on a retail electric customer's side of the meter.

(2) "Distributed renewable generation owner" means the owner of distributed renewable generation.

(3) "Interconnection" means the right of a distributed renewable generation owner to physically connect distributed renewable generation to an electricity distribution system, and the technical requirements, rules, or processes for the connection.

(b) A transmission and distribution utility or electric utility shall allow interconnection if:

(1) the distributed renewable generation to be interconnected has a five-year warranty against breakdown or undue degradation; and

(2) the rated capacity of the distributed renewable generation does not exceed the transmission and distribution utility or electric utility service capacity.

(c) A customer may request interconnection by filing an application for interconnection with the transmission and distribution utility or electric utility. Procedures of a transmission and distribution utility or electric utility for the submission and processing of a customer's application for interconnection shall be consistent with rules adopted by the commission regarding interconnection.

(d) The commission by rule shall establish safety, technical, and performance standards for distributed renewable generation that may be interconnected. In adopting the rules, the commission shall consider standards published by the Underwriters Laboratories, the National Electric Code, the National Electric Safety Code, and the Institute of Electrical and Electronics Engineers.

(e) A transmission and distribution utility, electric utility, or retail electric provider may not require a distributed renewable generation owner whose distributed renewable generation meets the standards established by rule under Subsection (d) to purchase an amount, type, or classification of liability insurance the distributed renewable generation owner would not have in the absence of the distributed renewable generation.

(f) A transmission and distribution utility or electric utility shall make available to a distributed renewable generation owner for purposes of this section metering required for services provided under this section, including separate meters that measure the load and generator output or a single meter capable of measuring in-flow and out-flow at the point of common coupling meter point. The distributed renewable generation owner must pay the differential cost of the metering unless the meters are provided at no additional cost. Except as provided by this section, Section 39.107 applies to metering under this section.

(g) A renewable energy credit that is earned by a distributed renewable generation owner through the interconnection of a renewable electric system is the sole property of the distributed renewable generation owner unless the distributed renewable generation owner engages in a transaction to sell or trade

the credit under Section 39.904. For electric utilities, the commission shall address the ownership of renewable energy credits associated with power sold to the utility.

(h) An electric utility or retail electric provider may contract with a distributed renewable generation owner so that:

(1) surplus electricity produced by distributed renewable generation is made available for sale to the transmission grid and distribution system; and

(2) the net value of that surplus electricity is credited to the distributed renewable generation owner.

(j) For distributed renewable generation owners in areas in which customer choice has been introduced, the distributed renewable generation owner must sell the owner's surplus electricity produced to the retail electric provider that serves the distributed renewable generation owner's load at a value agreed to between the distributed renewable generation owner and the provider that serves the owner's load which may include, but is not limited to, an agreed value based on the clearing price of energy at the time of day that the electricity is made available to the grid or it may be a credit applied to an account during a billing period that may be carried over to subsequent billing periods until the credit has been redeemed. The independent organization identified in Section 39.151 shall develop procedures so that the amount of electricity purchased from a distributed renewable generation owner under this section is accounted for in settling the total load served by the provider that serves that owner's load by January 1, 2009. A distributed renewable generation owner requesting net metering services for purposes of this section must have metering devices capable of providing measurements consistent with the independent organization's settlement requirements.

SECTION 27. Section 40.055(a), Utilities Code, is amended to read as follows:

(a) The municipal governing body or a body vested with the power to manage and operate a municipally owned utility has exclusive jurisdiction to:

(1) set all terms of access, conditions, and rates applicable to services provided by the municipally owned utility, subject to Sections 40.054 and 40.056, including nondiscriminatory and comparable rates for distribution but excluding wholesale transmission rates, terms of access, and conditions for wholesale transmission service set by the commission under this subtitle, provided that the rates for distribution access established by the municipal governing body shall be comparable to the distribution access rates that apply to the municipally owned utility and the municipally owned utility's affiliates;

(2) determine whether to unbundle any energy-related activities and, if the municipally owned utility chooses to unbundle, whether to do so structurally or functionally;

(3) reasonably determine the amount of the municipally owned utility's stranded investment;

(4) establish nondiscriminatory transition charges reasonably designed to recover the stranded investment over an appropriate period of time, provided that recovery of retail stranded costs shall be from all existing or future retail

customers, including the facilities, premises, and loads of those retail customers, within the utility's geographical certificated service area as it existed on May 1, 1999;

(5) determine the extent to which the municipally owned utility will provide various customer services at the distribution level, including other services that the municipally owned utility is legally authorized to provide, or will accept the services from other providers;

(6) manage and operate the municipality's electric utility systems, including exercise of control over resource acquisition and any related expansion programs;

(7) establish and enforce service quality and reliability standards and consumer safeguards designed to protect retail electric customers, including safeguards that will accomplish the objectives of Sections 39.101(a) and (b), consistent with this chapter;

(8) determine whether a base rate reduction is appropriate for the municipally owned utility;

(9) determine any other utility matters that the municipal governing body or body vested with power to manage and operate the municipally owned utility believes should be included; ~~and~~

(10) make any other decisions affecting the municipally owned utility's participation in customer choice that are not inconsistent with this chapter; and

(11) determine the extent to which the municipally owned utility offers energy efficiency programs and how the programs are administered by the utility, except as provided by Section 39.9051(e).

SECTION 28. Section 41.055, Utilities Code, is amended to read as follows:

Sec. 41.055. JURISDICTION OF BOARD OF DIRECTORS. A board of directors has exclusive jurisdiction to:

(1) set all terms of access, conditions, and rates applicable to services provided by the electric cooperative, except as provided by Sections 41.054 and 41.056, including nondiscriminatory and comparable rates for distribution but excluding wholesale transmission rates, terms of access, and conditions for wholesale transmission service set by the commission under Subchapter A, Chapter 35, provided that the rates for distribution established by the electric cooperative shall be comparable to the distribution rates that apply to the electric cooperative and its subsidiaries;

(2) determine whether to unbundle any energy-related activities and, if the board of directors chooses to unbundle, whether to do so structurally or functionally;

(3) reasonably determine the amount of the electric cooperative's stranded investment;

(4) establish nondiscriminatory transition charges reasonably designed to recover the stranded investment over an appropriate period of time;

(5) determine the extent to which the electric cooperative will provide various customer services, including nonelectric services, or accept the services from other providers;

(6) manage and operate the electric cooperative's utility systems, including exercise of control over resource acquisition and any related expansion programs;

(7) establish and enforce service quality standards, reliability standards, and consumer safeguards designed to protect retail electric customers;

(8) determine whether a base rate reduction is appropriate for the electric cooperative;

(9) determine any other utility matters that the board of directors believes should be included;

(10) sell electric energy and capacity at wholesale, regardless of whether the electric cooperative participates in customer choice;

(11) determine the extent to which the electric cooperative offers energy efficiency programs and how the programs are administered by the electric cooperative; and

(12) [(44)] make any other decisions affecting the electric cooperative's method of conducting business that are not inconsistent with the provisions of this chapter.

SECTION 29. The State Energy Conservation Office shall adopt rules implementing a procedure for stakeholder participation as required under Section 388.003(b-2), Health and Safety Code, as added by this Act, as soon as practicable after the effective date of this Act.

SECTION 30. (a) The energy conservation standards for equipment and appliances under Section 2158.301, Government Code, as added by this Act, apply to a purchase by a state agency on or after the effective date of this Act.

(b) The Texas Building and Procurement Commission shall develop a list of equipment and appliances under Section 2155.068, Government Code, as amended by this Act, as soon as practicable after the effective date of this Act.

SECTION 31. Section 2165.058(c), Government Code, as added by this Act, applies only to an entity that contracts with the Texas Building and Procurement Commission or another state agency to install or operate a vending machine on or after the effective date of this Act.

SECTION 32. The change in law made by this Act does not affect taxes imposed before the effective date of this Act, and the law in effect before the effective date of this Act is continued in effect for purposes of the liability for and collection of those taxes.

SECTION 33. This Act takes effect September 1, 2007.

Representative Straus moved to adopt the conference committee report on **HB 3693**.

A record vote was requested.

The motion to adopt the conference committee report on **HB 3693** prevailed by (Record 2030): 140 Yeas, 2 Nays, 3 Present, not voting.

Yeas — Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Driver; Dukes;

Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Moreno; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Taylor; Thompson; Truitt; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Nays — Gallego; Hochberg.

Present, not voting — Mr. Speaker; King, P.; Turner(C).

Absent, Excused — Allen; Chavez; Ritter.

Absent — Deshotel; Talton.

HB 3693 - STATEMENT OF LEGISLATIVE INTENT

Regarding SECTION 8 of **HB 3693**, specifically Section 2264.001(b), it is my intent that payments for the purchase of wholesale electricity, water, or natural gas by a utility operated by a governmental entity shall not be subject to the recording and reporting requirements of this subsection.

Straus

SCR 87 - ADOPTED (Eissler - House Sponsor)

The following privileged resolution was laid before the house:

SCR 87, Instructing the enrolling clerk of the senate to make corrections in **SB 1031**.

SCR 87 was adopted.

(Gattis in the chair)

SCR 86 - ADOPTED (Thompson - House Sponsor)

The following privileged resolution was laid before the house:

SCR 86, Instructing the enrolling clerk of the senate to make corrections in **SB 222**.

SCR 86 was adopted.

**SCR 90 - ADOPTED
(Corte - House Sponsor)**

The following privileged resolution was laid before the house:

SCR 90, Instructing the enrolling clerk of the senate to make corrections in **SB 11**.

SB 11 - STATEMENT OF LEGISLATIVE INTENT

BURNAM: Mr. Corte, you may have heard my question earlier concerning the point of order and the ruling, as it applied specifically to this section of the bill, and I have not had a response or an answer from the parliamentarian about how that ruling could have occurred. So now is an appropriate time for you to help clarify to the members exactly what that section of the bill does, and how it enhances the public safety, which is what it's purported to do.

REPRESENTATIVE CORTE: Thank you for asking that question, Mr. Burnam. **SB 11** is very comprehensive in dealing with public safety and helping local officials deal with responding and assisting those citizens. Every level of government has a responsibility in doing that, and they can declare disaster proclamations. In particular, in the provision that we talked about in the point of order on the fireworks, a county has authority, but they don't have executive authority like the governor to completely ban fireworks. They have abilities to ban certain types of fireworks that fly up in the air and do certain things and so what this clarifying, correcting provision does, is gives them the abilities to get their proclamation from the governor, so they can effectively ban fireworks if there's a concern that if those fireworks were to be used it would create a burn situation in those counties.

BURNAM: And isn't it true, and I'm asking this for legislative intent, isn't it true that the way you have fixed this amendment to the bill, it means local county governments can temporarily, for a limited period of time, authorize a complete ban, and then they have to take that to the governor?

CORTE: Exactly. What it does is, says they have a 60 hour moratorium ban, or sale ban, with 60 hours, so they can go to the governor and get that proclamation, where they would have a ban for the period where the proclamation the governor would issue.

REMARKS ORDERED PRINTED

Representative Burnam moved to print remarks between Representative Corte and Representative Burnam.

The motion prevailed.

SCR 90 was adopted.

SB 3 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Puente submitted the conference committee report on **SB 3**.

SB 3 - POINTS OF ORDER

Representative Frost raised a point of order against further consideration of **SB 3** under Rule 13, Section 11 of the House Rules on the grounds that the analysis of the conference committee report is incorrect.

The chair overruled the point of order.

Representative Frost raised a point of order against further consideration of **SB 3** under Rule 8, Section 3 of the House Rules on the grounds that the bill violates the one subject rule.

The chair overruled the point of order.

Representative Puente moved to adopt the conference committee report on **SB 3**.

A record vote was requested.

The motion to adopt the conference committee report on **SB 3** prevailed by (Record 2031): 113 Yeas, 28 Nays, 2 Present, not voting.

Yeas — Alonzo; Anchia; Anderson; Aycock; Bailey; Bohac; Bolton; Bonnen; Branch; Callegari; Castro; Chisum; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, Y.; Delisi; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farias; Farrar; Flores; Garcia; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hill; Hochberg; Hodge; Howard, C.; Jackson; Keffer; King, P.; King, S.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; Menendez; Miles; Miller; Moreno; Morrison; Mowery; Murphy; Noriega; Oliveira; Orr; Ortiz; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Smith, T.; Smith, W.; Smithee; Solomons; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Nays — Berman; Brown, B.; Brown, F.; Christian; Davis, J.; Deshotel; Dunnam; Farabee; Flynn; Frost; Gallego; Gattis(C); Haggerty; Hamilton; Homer; Hopson; Howard, D.; Hughes; Isett; Jones; King, T.; McReynolds; Merritt; Naishtat; Olivo; Otto; Rose; Strama.

Present, not voting — Mr. Speaker; Hilderbran.

Absent, Excused — Allen; Chavez; Ritter.

Absent — Burnam; O'Day; Riddle; Rodriguez.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 2031. I intended to vote no.

Bolton

I was shown voting present, not voting on Record No. 2031. I intended to vote no.

Hilderbran

I was shown voting yes on Record No. 2031. I intended to vote no.

Puente

HB 1919 - MOTION TO SUSPEND RULES

Representative T. Smith moved to suspend all necessary rules to consider the conference committee report on **HB 1919**.

(Ritter now present)

A record vote was requested.

The motion was lost by (Record 2032): 81 Yeas, 59 Nays, 2 Present, not voting. (The vote was reconsidered later today, and the motion to suspend rules prevailed by Record 2049.)

Yeas — Alonzo; Bailey; Bolton; Bonnen; Burnam; Castro; Chisum; Cohen; Coleman; Davis, J.; Davis, Y.; Delisi; Deshotel; Dukes; Dunnam; Dutton; Eiland; England; Escobar; Farabee; Farias; Farrar; Frost; Gallego; Garcia; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Hancock; Hartnett; Heflin; Hernandez; Herrero; Hill; Hochberg; Hodge; Homer; Hopson; Howard, D.; Keffer; King, S.; King, T.; Leibowitz; Lucio; Mallory Caraway; Martinez; Martinez Fischer; McCall; McReynolds; Menendez; Miles; Moreno; Murphy; Naishtat; Noriega; Oliveira; Olivo; Orr; Ortiz; Otto; Peña; Pickett; Pierson; Puente; Quintanilla; Raymond; Ritter; Rodriguez; Rose; Smith, T.; Solomons; Strama; Swinford; Thompson; Vaught; Veasey; Villarreal; Vo; Woolley; Zerwas.

Nays — Anchia; Anderson; Aycock; Berman; Bohac; Branch; Brown, B.; Brown, F.; Callegari; Christian; Cook, B.; Corte; Crabb; Creighton; Crownover; Darby; Driver; Eissler; Elkins; Flynn; Geren; Goolsby; Haggerty; Hamilton; Hardcastle; Harless; Harper-Brown; Hilderbran; Howard, C.; Hughes; Isett; Jackson; Jones; King, P.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Macias; Madden; Merritt; Miller; Morrison; O'Day; Parker; Patrick; Paxton; Phillips; Pitts; Riddle; Smith, W.; Smithee; Talton; Taylor; Truitt; Van Arsdale; West; Zedler.

Present, not voting — Mr. Speaker; Gattis(C).

Absent, Excused — Allen; Chavez.

Absent — Cook, R.; Flores; McClendon; Mowery; Straus; Turner.

STATEMENTS OF VOTE

I was shown voting no on Record No. 2032. I intended to vote yes.

Callegari

I was shown voting yes on Record No. 2032. I intended to vote no.

Homer

I was shown voting yes on Record No. 2032. I intended to vote no.

Peña

I was shown voting no on Record No. 2032. I intended to vote yes.

Truitt

HR 2876 - ADOPTED

Representative Hill moved to suspend Rule 8, Section 13 in order to consider **HR 2876**.

A record vote was requested.

The motion prevailed by (Record 2033): 139 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, S.; King, T.; Kolkhorst; Kuempel; Latham; Laubenberg; Leibowitz; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Moreno; Morrison; Mowery; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker; Gattis(C).

Absent, Excused — Allen; Chavez.

Absent — Davis, Y.; King, P.; Krusee; Lucio; Murphy; Ritter; Turner.

The following privileged resolution was laid before the house:

HR 2876

BE IT RESOLVED by the House of Representatives of the State of Texas, 80th Legislature, Regular Session, 2007, That House Rule 13, Section 9(a), be suspended in part as provided by House Rule 13, Section 9(f), to enable the conference committee appointed to resolve the differences on **HB 2093** (the issuance and enforcement of motor carrier overweight or oversize vehicle permits and motor carrier registrations; providing administrative penalties) to consider and take action on the following matter:

House Rule 13, Sections 9(a)(3) and (4), are suspended to permit the committee to add the following:

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

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

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

HR 2876 was adopted.

HB 2093 - RULES SUSPENDED

Representative Hill moved to suspend all necessary rules to consider the conference committee report on **HB 2093**.

The motion prevailed.

HB 2093 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Hill submitted the following conference committee report on **HB 2093**:

Austin, Texas, May 26, 2007

The Honorable David Dewhurst
President of the Senate

The Honorable Tom Craddick
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 2093** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Carona
Brimer
Ogden

On the part of the senate

Hill
Krusee
Phillips

On the part of the house

HB 2093, A bill to be entitled An Act relating to the issuance and enforcement of motor carrier overweight or oversize vehicle permits and motor carrier registrations; providing administrative penalties.

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

SECTION 1. LEGISLATIVE FINDINGS AND PURPOSE. The legislature finds that as the economy of this state continues its steady growth, significant increases in the amount of freight moving on the roadways of this state have followed suit; that the demand for oversize and overweight permits issued by the motor carrier division of the Texas Department of Transportation has long since surpassed the department's capacity to keep pace; and that the department's inability to service the needs of the trucking industry has resulted in extreme delays in the issuance of permits by the motor carrier division, which negatively impact not only the motor carriers involved but also the shipping public they serve. The purposes of this Act are to increase the fees charged for permits issued by the motor carrier division of the Texas Department of Transportation, to address enforcement efforts against violators of the motor vehicle size and weight laws of this state, and to provide a significant increase in revenue realized by this state from increased permit fees, a portion of which will be used to address the

growing problem of the untimely issuance of oversize and overweight permits by retaining an increased number of appropriate private sector service providers to perform necessary bridge and route inspections and a portion of which will be used to add at least 25 full-time employees to the number employed by the motor carrier division.

SECTION 2. Section 621.353(c), Transportation Code, is amended to read as follows:

(c) The comptroller shall send each fee collected under Section 623.0111 [~~623.0112~~] for an excess weight permit to the counties designated on the application for the permit, with each county shown on the application receiving an amount determined according to the ratio of the total number of miles of county roads maintained by the county to the total number of miles of county roads maintained by all of the counties designated on the application.

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

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

SECTION 4. Section 623.0111, Transportation Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) When a person applies for a permit under Section 623.011, the person must:

(1) designate in the application each county in which the vehicle will be operated; and

(2) pay in addition to other fees an annual fee in an amount determined according to the following table:

Number of Counties Designated	Fee
1-5	\$175
6-20	\$250 [\$125]
21-40	\$450 [\$345]
41-60	\$625 [\$565]
61-80	\$800 [\$785]
81-100	\$900 [\$1,005]
101-254	\$1,000 [\$2,000]

(c) Of the fees collected under Subsection (a) the following amounts shall be deposited to the general revenue fund and the remainder shall be deposited to the credit of the state highway fund:

Number of Counties Designated	Amount Allocated to General Revenue Fund
1-5	\$125
6-20	\$125
21-40	\$345
41-60	\$565
61-80	\$785
81-100	\$900
101-254	\$1,000

SECTION 5. Section 623.076, Transportation Code, is amended by amending Subsections (a) and (c) and adding Subsection (a-1) to read as follows:

(a) An application for a permit under this subchapter must be accompanied by a permit fee of:

(1) \$60 [~~\$30~~] for a single-trip permit;

(2) \$120 [~~\$60~~] for a permit that is valid for a period not exceeding 30 days;

(3) \$180 [~~\$90~~] for a permit that is valid for a period of 31 days or more but not exceeding 60 days;

(4) \$240 [~~\$120~~] for a permit that is valid for a period of 61 days or more but not exceeding 90 days; or

(5) \$270 [~~\$135~~] for a permit issued under Section 623.071(c)(1) or (2).

(a-1) The following amounts collected under Subsection (a) shall be deposited to the general revenue fund and the remainder deposited to the credit of the state highway fund:

<u>Amount of Fee</u>	<u>Amount Allocated to General Revenue Fund</u>
<u>\$60 (single-trip permit)</u>	<u>\$30</u>
<u>\$120 (30-day permit)</u>	<u>\$60</u>
<u>\$180</u>	<u>\$90</u>
<u>\$240</u>	<u>\$120</u>
<u>\$270</u>	<u>\$135</u>

(c) An application for a permit under Section 623.071(c)(3) or (d) must be accompanied by the permit fee established by the commission for the permit, not to exceed \$7,000 [~~\$3,500~~]. Of each fee collected under this subsection, the department shall send:

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

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

SECTION 6. Section 623.077(a), Transportation Code, is amended to read as follows:

(a) An applicant for a permit under this subchapter, other than a permit under Section 623.071(c)(3), must also pay a highway maintenance fee in an amount determined according to the following table:

<u>Vehicle Weight in Pounds</u>	<u>Fee</u>
80,001 to 120,000	<u>\$150</u> [\$50]
120,001 to 160,000	<u>\$225</u> [\$75]
160,001 to 200,000	<u>\$300</u> [\$100]
200,001 and above	<u>\$375</u> [\$125]

SECTION 7. Sections 623.096(a) and (b), Transportation Code, are amended to read as follows:

(a) The department shall collect a fee of \$40 [~~\$20~~] for each permit issued under this subchapter. Of each fee, \$19.70 [~~30 cents~~] shall be deposited to the credit of the general revenue fund and the remainder deposited to the credit of the state highway fund.

(b) The department shall adopt rules concerning fees for each annual permit issued under Section 623.095(c) at a cost not to exceed \$3,000 [~~\$1,500~~]. ~~[Two percent of any fee adopted shall be deposited to the credit of the state highway fund.]~~

SECTION 8. Section 623.124, Transportation Code, is amended to read as follows:

Sec. 623.124. FEE. (a) An application for a permit must be accompanied by a fee of \$15 [~~\$7.50~~].

(b) The department shall send each fee collected under this section to the comptroller. Of each fee received from the department, the comptroller shall deposit \$7.50 to the credit of the general revenue fund and \$7.50 to the credit of the state highway fund.

SECTION 9. Section 623.144, Transportation Code, is amended to read as follows:

Sec. 623.144. REGISTRATION OF VEHICLE. A permit under this subchapter may be issued only if the vehicle is registered under Chapter 502 for the maximum gross weight applicable to the vehicle under Section 621.101 or has the distinguishing license plates as provided by Section 504.504 [~~502.276~~] if applicable to the vehicle.

SECTION 10. Section 623.149(a), Transportation Code, is amended to read as follows:

(a) The department may establish criteria to determine whether oil well servicing, oil well clean out, or oil well drilling machinery or equipment is subject to registration under Chapter 502 or eligible for the distinguishing license plate provided by Section 504.504 [~~502.276~~].

SECTION 11. Section 623.182, Transportation Code, is amended to read as follows:

Sec. 623.182. PERMIT FEE. (a) The fee for a permit under this subchapter is \$100 [~~\$50~~].

(b) The department shall send each fee collected under this subchapter to the comptroller. Of each fee received from the department, the comptroller shall deposit \$50 to the credit of the general revenue fund and \$50 to the credit of the state highway fund.

SECTION 12. Section 623.194, Transportation Code, is amended to read as follows:

Sec. 623.194. REGISTRATION OF VEHICLE. A permit under this subchapter may be issued only if the vehicle to be moved is registered under Chapter 502 for the maximum gross weight applicable to the vehicle under Section 621.101 or has the distinguishing license plates as provided by Section 504.504 [~~502.276~~] if applicable to the vehicle.

SECTION 13. Section 623.199(a), Transportation Code, is amended to read as follows:

(a) The department may establish criteria to determine whether an unladen lift equipment motor vehicle that because of its design for use as lift equipment exceeds the maximum weight and width limitations prescribed by statute is subject to registration under Chapter 502 or eligible for the distinguishing license plate provided by Section 504.504 ~~[502.276]~~.

SECTION 14. Section 623.001, Transportation Code, is amended to read as follows:

Sec. 623.001. DEFINITIONS ~~[DEFINITION]~~. In this chapter:

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

(2) "Shipper" means a person who consigns the movement of a shipment.

(3) "Shipper's certificate of weight" means a document described by Section 623.274.

SECTION 15 Chapter 623, Transportation Code, is amended by adding Subchapter N to read as follows:

SUBCHAPTER N. ADMINISTRATIVE SANCTIONS

Sec. 623.271. ADMINISTRATIVE ENFORCEMENT. (a) The department may investigate and, except as provided by Subsection (f), may impose an administrative penalty or revoke an oversize or overweight permit issued under this chapter if the person or the holder of the permit, as applicable:

(1) provides false information on the permit application or another form required by the department for the issuance of an oversize or overweight permit;

(2) violates this chapter, Chapter 621, or Chapter 622;

(3) violates a rule or order adopted under this chapter, Chapter 621, or Chapter 622; or

(4) fails to obtain an oversize or overweight permit if a permit is required.

(b) The notice and hearing requirements of Section 643.2525 apply to the imposition of an administrative penalty or the revocation of a permit under this section as if the action were being taken under that section.

(c) It is an affirmative defense to administrative enforcement under this section that the person or holder of the permit relied on the shipper's certificate of weight.

(d) The amount of an administrative penalty imposed under this section is calculated in the same manner as the amount of an administrative penalty imposed under Section 643.251.

(e) A person who has been ordered to pay an administrative penalty under this section and the vehicle that is the subject of the enforcement order may not be issued a permit under this chapter until the amount of the penalty has been paid to the department.

(f) This subsection applies only to a vehicle or combination that is used to transport agricultural products or timber products from the place of production to the place of first marketing or first processing. In connection with a violation of a vehicle or combination weight restriction or limitation in this chapter, Chapter 621, or Chapter 622, the department may not impose an administrative penalty

against a person or the holder of an overweight permit if the weight of the vehicle or combination involved in the violation did not exceed the allowable weight by more than three percent.

Sec. 623.272. ADMINISTRATIVE PENALTY FOR FALSE INFORMATION ON CERTIFICATE. (a) The department may investigate and impose an administrative penalty on a shipper who provides false information on a shipper's certificate of weight that the shipper delivers to a person transporting a shipment.

(b) The notice and hearing requirements of Section 643.2525 apply to the imposition of an administrative penalty under this section as if the action were being taken under that section.

(c) The amount of an administrative penalty imposed under this section is calculated in the same manner as the amount of an administrative penalty imposed under Section 643.251.

Sec. 623.273. INJUNCTIVE RELIEF. (a) The attorney general, at the request of the department, may petition a district court for appropriate injunctive relief to prevent or abate a violation of this chapter or a rule or order adopted under this chapter.

(b) Venue in a suit for injunctive relief under this section is in Travis County.

(c) On application for injunctive relief and a finding that a person is violating or has violated this chapter or a rule or order adopted under this chapter, the court shall grant the appropriate relief without bond.

(d) The attorney general and the department may recover reasonable expenses incurred in obtaining injunctive relief under this section, including court costs, reasonable attorney's fees, investigative costs, witness fees, and deposition expenses.

Sec. 623.274. SHIPPER'S CERTIFICATE OF WEIGHT. (a) The department shall prescribe a form to be used for a shipper's certificate of weight. The form must provide space for the maximum weight of the shipment being transported.

(b) For a shipper's certificate of weight to be valid, the shipper must:

(1) certify that the information contained on the form is accurate; and

(2) deliver the certificate to the motor carrier or other person transporting the shipment before the motor carrier or other person applies for an overweight permit under this chapter.

SECTION 16. Section 643.001, Transportation Code, is amended by adding Subdivision (7-a) to read as follows:

(7-a) "Unified carrier registration system" means a motor vehicle registration system established under 49 U.S.C. Section 14504a or a similar federal registration program that replaces that system.

SECTION 17. Section 643.002, Transportation Code, is amended to read as follows:

Sec. 643.002. EXEMPTIONS. This chapter does not apply to:

(1) motor carrier operations exempt from registration by the Unified Carrier Registration Act of 2005 (49 U.S.C. Section 14504a) or a motor vehicle registered under the single state registration system established under 49 U.S.C. Section 14504(c) when operating exclusively in interstate or international commerce;

(2) a motor vehicle registered as a cotton vehicle under Section 504.505 [~~502.277~~];

(3) a motor vehicle the department by rule exempts because the vehicle is subject to comparable registration and a comparable safety program administered by another governmental entity;

(4) a motor vehicle used to transport passengers operated by an entity whose primary function is not the transportation of passengers, such as a vehicle operated by a hotel, day-care center, public or private school, nursing home, or similar organization;

(5) a vehicle operating under a private carrier permit issued under Chapter 42, Alcoholic Beverage Code; or

(6) a vehicle operated by a governmental entity.

SECTION 18. Section 643.251(a), Transportation Code, is amended to read as follows:

(a) The department may impose an administrative penalty against a motor carrier required to register under Subchapter B that violates this chapter [~~Subchapter B or C or Section 643.151, 643.152, 643.153(a) (f), or 643.155~~] or a rule or order adopted under this chapter [~~those provisions or Section 643.003. The department shall designate one or more employees to investigate violations and administer penalties under this section.~~].

SECTION 19. The heading to Section 643.252, Transportation Code, is amended to read as follows:

Sec. 643.252. ADMINISTRATIVE SANCTIONS [~~SUSPENSION AND REVOCATION OF REGISTRATION~~].

SECTION 20. Section 643.252(a), Transportation Code, is amended to read as follows:

(a) The department may suspend, [~~or~~] revoke, or deny a registration issued under this chapter or place on probation a motor carrier whose registration is suspended if a motor carrier:

(1) fails to maintain insurance or evidence of financial responsibility as required by Section 643.101(a), (b), (c), or (d);

(2) fails to keep evidence of insurance in the cab of each vehicle as required by Section 643.103(b);

(3) fails to register a vehicle requiring registration;

(4) violates any other provision of this chapter;

(5) knowingly provides false information on any form filed with the department under this chapter; or

(6) [~~(5)~~] violates a rule or order adopted under this chapter [~~Section 643.063~~].

SECTION 21. Subchapter F, Chapter 643, Transportation Code, is amended by adding Section 643.2525 to read as follows:

Sec. 643.2525. ADMINISTRATIVE HEARING PROCESS. (a) If the department determines that a violation has occurred for which an enforcement action is being taken under Section 643.251 or 643.252, the department shall give written notice to the motor carrier by first class mail to the carrier's address as shown in the records of the department.

(b) A notice required by Subsection (a) must include:

- (1) a brief summary of the alleged violation;
- (2) a statement of each administrative sanction being taken;
- (3) the effective date of each sanction;
- (4) a statement informing the carrier of the carrier's right to request a hearing; and
- (5) a statement as to the procedure for requesting a hearing, including the period during which a request must be made.

(c) If not later than the 26th day after the date the notice is mailed the department receives a written request for a hearing, the department shall set a hearing and give notice of the hearing to the carrier. The hearing shall be conducted by an administrative law judge of the State Office of Administrative Hearings.

(d) If the motor carrier does not timely request a hearing under Subsection (c), the department's decision becomes final on the expiration of the period described by Subsection (c).

(e) The administrative law judge shall make findings of fact and conclusions of law and promptly issue to the director a proposal for a decision as to the occurrence of the violation and the administrative penalties or sanctions.

(f) In addition to a penalty or sanction proposed under Subsection (e), the administrative law judge shall include in the proposal for a decision a finding setting out costs, fees, expenses, and reasonable and necessary attorney's fees incurred by the state in bringing the proceeding. The director may adopt the finding and make it a part of a final order entered in the proceeding.

(g) Based on the findings of fact, conclusions of law, and proposal for a decision, the director by order may find that a violation has occurred and impose the sanctions or may find that a violation has not occurred.

(h) The director shall provide written notice to the motor carrier of a finding made under Subsection (g) and shall include in the notice a statement of the right of the carrier to judicial review of the order.

(i) Before the 31st day after the date the director's order under Subsection (g) becomes final as provided by Section 2001.144, Government Code, the motor carrier may appeal the order by filing a petition for judicial review contesting the order. Judicial review is under the substantial evidence rule.

(j) A petition filed under Subsection (i) stays the enforcement of the administrative action until the earlier of the 550th day after the date the petition was filed or the date a final judgment is rendered by the court.

(k) If the motor carrier is required to pay a penalty or cost under Subsection (f), failure to pay the penalty or cost before the 61st day after the date the requirement becomes final is a violation of this chapter and may result in an additional penalty, revocation or suspension of a motor carrier registration, or denial of renewal of a motor carrier registration.

(l) A motor carrier that is required to pay a penalty, cost, fee, or expense under this section or Section 643.251 is not eligible for a reinstatement or renewal of a registration under this chapter until all required amounts have been paid to the department.

(m) If the suspension of a motor carrier's registration is probated, the department may require the carrier to report regularly to the department on any matter that is the basis of the probation. Any violation of the probation may result in the imposition of an administrative penalty or the revocation of the registration.

(n) All proceedings under this section are subject to Chapter 2001, Government Code.

SECTION 22. Section 643.254(a), Transportation Code, is amended to read as follows:

(a) To investigate an alleged violation of this chapter or a rule or order adopted under this chapter [~~Subchapter B, C, or D~~], an officer or employee of the department who has been certified for the purpose by the director may enter a motor carrier's premises to inspect, copy, or verify the correctness of a document, including an operation log or insurance certificate.

SECTION 23. Subchapter F, Chapter 643, Transportation Code, is amended by adding Section 643.255 to read as follows:

Sec. 643.255. INJUNCTIVE RELIEF. (a) The attorney general, at the request of the department, may petition a district court for appropriate injunctive relief to prevent or abate a violation of this chapter or a rule or order adopted under this chapter.

(b) Venue in a suit for injunctive relief under this section is in Travis County.

(c) On application for injunctive relief and a finding that a person is violating or has violated this chapter or a rule or order adopted under this chapter, the court shall grant the appropriate relief without bond.

(d) The attorney general and the department may recover reasonable expenses incurred in obtaining injunctive relief under this section, including court costs, reasonable attorney's fees, investigative costs, witness fees, and deposition expenses.

SECTION 24. Section 645.001, Transportation Code, is amended to read as follows:

Sec. 645.001. FEDERAL MOTOR CARRIER [~~SINGLE STATE~~] REGISTRATION. The Texas Department of Transportation may [~~shall~~], to the fullest extent practicable, participate in a federal motor carrier registration program under the unified carrier registration system as defined by Section 643.001 or the single state registration system established under 49 U.S.C. Section 14504.

SECTION 25. Section 645.003, Transportation Code, is amended to read as follows:

Sec. 645.003. ENFORCEMENT RULES. The department shall adopt rules that are consistent with federal law providing for[-

~~[(4)] administrative penalties and sanctions for a failure to register as required by the unified carrier registration system or single state registration system or for a violation of this chapter or a rule adopted under this chapter in the same manner as Subchapter F, Chapter 643 [Section 643.251; and~~

~~[(2) suspension and revocation of registration in the same manner as Section 643.252].~~

SECTION 26. The following laws are repealed:

(1) Sections 643.251(d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), (o), (p), (q), and (r), Transportation Code; and

(2) Sections 643.252(c), (d), and (e), Transportation Code.

SECTION 27. (a) Subchapter N, Chapter 623, Transportation Code, as added by this Act, applies only to a violation that occurs, or information that is provided to the Texas Department of Transportation, on or after the effective date of this Act.

(b) Section 643.2525, Transportation Code, as added by this Act, applies only to a violation for which an enforcement action under Section 643.251 or 643.252, Transportation Code, is commenced on or after the effective date of this Act, regardless of when the violation occurred. An action commenced under Section 643.251 or 643.252, Transportation Code, before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

(c) Except as otherwise provided by Subsection (d) of this section, the changes in law made by this Act relating to the amount or disposition of a fee collected by the Texas Department of Transportation in connection with a permit for an overweight or oversize vehicle apply only to a permit that is applied for on or after the effective date of this Act.

(d) The changes in law made by this Act relating to the amount or disposition of a fee collected by the Texas Department of Transportation do not apply to a permit for an overweight or oversize vehicle applied for in connection with the delivery of pre-stressed concrete girders and beams under a construction contract for a public road or bridge infrastructure project executed before the effective date of this Act. The amount and disposition of the fee for the permit is governed by the law in effect at the time the construction contract was executed, and the former law is continued in effect for that purpose.

SECTION 28. This Act takes effect September 1, 2007.

Representative Hill moved to adopt the conference committee report on **HB 2093**.

A record vote was requested.

The motion to adopt the conference committee report on **HB 2093** prevailed by (Record 2034): 142 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McClendon; Menendez; Merritt; Miles; Miller; Moreno; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker; Gattis(C).

Absent, Excused — Allen; Chavez.

Absent — McCall; McReynolds; Morrison; Ritter.

STATEMENT OF VOTE

When Record No. 2034 was taken, I was in the house but away from my desk. I would have voted yes.

Morrison

BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER

Notice was given at this time that the speaker had signed bills and resolutions in the presence of the house (see the addendum to the daily journal, Signed by the Speaker, Senate List No. 55).

HR 2891 - ADOPTED

Representative Eissler moved to suspend Rule 8, Section 13 to consider **HR 2891**.

A record vote was requested.

The motion prevailed by (Record 2035): 137 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hardcastle; Harless;

Harper-Brown; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; Menendez; Merritt; Miles; Miller; Moreno; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Riddle; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Van Arsdale; Vaught; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker; Gattis(C).

Absent, Excused — Allen; Chavez.

Absent — Bonnen; Hancock; Hartnett; McReynolds; Pierson; Ritter; Truitt; Turner; Veasey.

The following privileged resolution was laid before the house:

HR 2891

BE IT RESOLVED by the House of Representatives of the State of Texas, 80th Legislature, Regular Session, 2007, That House Rule 13, Section 9(a), be suspended in part as provided by House Rule 13, Section 9(f), to enable to conference committee appointed to resolve the differences on **HB 2237** (relating to grants, programs and innovative governance structures for dropout prevention, high school success, and college and workforce readiness in public schools) to consider and take action on the following matter:

House Rule 13, Sections 9(a)(3) and (4), are suspended to permit the committee to add the following:

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

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

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

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

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

(c) The agency, in consultation with the Texas Higher Education Coordinating Board, shall adopt an end-of-course assessment instrument for each course developed under this section to ensure the rigor of the course. A school

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

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

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

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

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

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

HR 2891 was adopted.

HB 2237 - RULES SUSPENDED

Representative Eissler moved to suspend all necessary rules to consider the conference committee report on **HB 2237**.

A record vote was requested.

The motion prevailed by (Record 2036): 137 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Frost; Gallego; Garcia; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jones; Keffer; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Miles; Miller; Moreno; Morrison; Mowery; Murphy; Naishtat; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Riddle; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker; Gattis(C).

Absent, Excused — Allen; Chavez.

Absent — Bonnen; Flynn; Jackson; King, S.; Merritt; Noriega; Pierson; Ritter; Turner.

STATEMENT OF VOTE

When Record No. 2036 was taken, my vote failed to register. I would have voted yes.

S. King

HB 2237 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Eissler submitted the following conference committee report on **HB 2237**:

Austin, Texas, May 26, 2007

The Honorable David Dewhurst
President of the Senate

The Honorable Tom Craddick
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 2237** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Shapiro
Janek
West

Eissler
Hochberg
Patrick
Krusee
Miles

On the part of the senate

On the part of the house

HB 2237, A bill to be entitled An Act relating to grants and programs for dropout prevention, high school success, and college and workforce readiness in public schools.

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

SECTION 1. Sections 7.009(a) and (b), Education Code, are amended to read as follows:

(a) In coordination with the Legislative Budget Board, the agency shall establish an online clearinghouse of information relating to best practices of campuses and school districts regarding instruction, dropout prevention, public school finance, resource allocation, and business practices. To the extent practicable, the agency shall ensure that information provided through the online clearinghouse is specific, actionable information relating to the best practices of high-performing and highly efficient campuses and school districts rather than general guidelines relating to campus and school district operation. The information must be accessible by campuses, school districts, and interested members of the public.

(b) The agency shall solicit and collect from the Legislative Budget Board, centers for education research established under Section 1.005, and exemplary or recognized school districts, campuses, and open-enrollment charter schools, as rated under Section 39.072, examples of best practices relating to instruction, dropout prevention, public school finance, resource allocation, and business practices, including best practices relating to curriculum, scope and sequence, compensation and incentive systems, bilingual education and special language programs, compensatory education programs, and the effective use of instructional technology, including online courses.

SECTION 2. Subchapter B, Chapter 7, Education Code, is amended by adding Section 7.031 to read as follows:

Sec. 7.031. STUDY OF BEST PRACTICES FOR DROPOUT PREVENTION. (a) The commissioner shall contract with one or more centers for education research under Section 1.005 or any other public or private entity qualified to conduct education research to:

(1) study the best practices of campuses and school districts in this state and other states regarding dropout prevention programs; and

(2) prepare a report regarding the findings of the study.

(b) The report under Subsection (a) must:

(1) identify any high-performing and highly efficient dropout prevention programs;

(2) identify the dropout prevention programs under Subdivision (1) that have the most potential for success in this state; and

(3) recommend legislation or other actions necessary to implement a dropout prevention program identified under Subdivision (2).

(c) Not later than December 1, 2008, the commissioner shall deliver the report produced under Subsection (a) to the governor, the lieutenant governor, the speaker of the house of representatives, and the presiding officers of the standing committees of each house of the legislature with primary jurisdiction over public education.

(d) This section expires January 1, 2009.

SECTION 3. Subchapter C, Chapter 7, Education Code, is amended by adding Section 7.062 to read as follows:

Sec. 7.062. SCIENCE LABORATORY GRANT PROGRAM. (a) In this section, "wealth per student" means a school district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code, or, if applicable, Section 42.2521, divided by the district's average daily attendance as determined under Section 42.005.

(b) The commissioner shall establish a program to provide competitive grants to school districts for the purpose of constructing or renovating high school science laboratories.

(c) Except as otherwise provided by this subsection, if the commissioner certifies that the amount appropriated for a state fiscal year for purposes of Subchapters A and B, Chapter 46, exceeds the amount to which school districts are entitled under those subchapters for that year, the commissioner shall use the excess funds, in an amount not to exceed \$20 million in any state fiscal year, for the purpose of making grants under this section. The use of excess funds under this subsection has priority over any provision of Chapter 42 that permits or directs the use of excess foundation school program funds, including Sections 42.2517, 42.2521, 42.2522, and 42.2531. The commissioner is required to use excess funds as provided by this subsection only if the commissioner is not required to reduce the total amount of state funds allocated to school districts under Section 42.253(h).

(d) The commissioner shall adopt rules necessary to implement the program, including rules addressing eligibility, application procedures, and accountability for use of grant funds.

(e) The rules must:

(1) limit the amount of assistance provided through a grant to not more than:

(A) for a construction project, \$200 per square foot of the science laboratory to be constructed; or

(B) for a renovation project, \$100 per square foot of the science laboratory to be renovated;

(2) require a school district to demonstrate, as a condition of eligibility for a grant, that the existing district science laboratories are insufficient in number to comply with the curriculum requirements imposed for the recommended and advanced high school programs under Section 28.025(b-1)(1); and

(3) provide for ranking school districts that apply for grants on the basis of wealth per student and giving priority in the award of grants to districts with low wealth per student.

SECTION 4. Subchapter J, Chapter 21, Education Code, is amended by adding Sections 21.4511, 21.4541, 21.4551, and 21.462 to read as follows:

Sec. 21.4511. PROFESSIONAL DEVELOPMENT ACTIVITIES FOR TEACHERS AND ADMINISTRATORS. (a) From funds appropriated for that purpose in an amount not to exceed \$2.5 million each year, the commissioner may develop and award grants to school districts, regional education service

centers, nonprofit organizations, and institutions of higher education for establishing and providing technical assistance and professional development activities in the staff development training of public school teachers and administrators.

(b) The training under this section shall include training relating to implementing curriculum and instruction that is aligned with the foundation curriculum described by Section 28.002(a)(1) and standards and expectations for college readiness, as determined by State Board of Education rule under Section 28.008(d).

(c) The commissioner may give preference to a school district, regional education service center, or institution of higher education conducting professional development activities under this section that applies for a grant in partnership with a state or national organization that has demonstrated success in the development and implementation of high school reform strategies.

Sec. 21.4541. MATHEMATICS INSTRUCTIONAL COACHES PILOT PROGRAM. (a) From funds appropriated for that purpose, the commissioner by rule shall establish a pilot program under which participating school districts and campuses receive grants to provide assistance in developing the content knowledge and instructional expertise of teachers who instruct students in mathematics at the middle school, junior high school, or high school level.

(b) A school district or campus is eligible to participate in the pilot program under this section if the district or campus meets the eligibility criteria established as provided by Section 39.358.

(c) A grant awarded under this section may be used to support intensive instructional coaching and professional development from a service provider approved by the commissioner. Approved service providers may include:

- (1) academies and training centers established in conjunction with a Texas Science, Technology, Engineering, and Mathematics (T-STEM) center;
- (2) regional education service centers;
- (3) institutions of higher education; and
- (4) private organizations with significant experience in providing mathematics instruction, as determined by the commissioner.

(d) An instructional coaching or professional development program supported by a grant under this section must demonstrate significant past effectiveness in improving mathematics instruction in middle schools, junior high schools, and high schools serving a significant number of students identified as students at risk of dropping out of school, as described by Section 29.081(d). An instructional coaching or professional development program may include:

- (1) providing classes to teachers on effective mathematics instruction;
- (2) providing tutoring or mentoring to teachers regarding effective mathematics instruction;
- (3) providing incentives to teachers to participate in the program; or
- (4) engaging in any other activities determined by the commissioner as likely to improve the instructional skills of teachers providing mathematics instruction.

(e) The commissioner shall adopt rules necessary to implement the pilot program.

Sec. 21.4551. TEACHER READING ACADEMIES. (a) The commissioner shall develop and make available reading academies for teachers who provide instruction to students at the sixth through eighth grade levels.

(b) A reading academy developed under this section must include training in:

(1) for a teacher providing instruction in reading to students at the seventh or eighth grade level:

(A) administration of the reading instrument required by Section 28.006(c-1); and

(B) interpretation of the results of the reading instrument required by Section 28.006(c-1) and strategies, based on scientific research regarding effective reading instruction, for long-term intensive intervention to target identified student needs in word recognition, vocabulary, fluency, and comprehension;

(2) for a teacher providing instruction in reading to students at the sixth, seventh, or eighth grade level:

(A) strategies to be implemented in English language arts and other subject areas for multisyllable word reading, vocabulary development, and comprehension of expository and narrative text;

(B) an adaptation framework that enables teachers to respond to differing student strengths and needs, including adaptations for students of limited English proficiency or students receiving special education services under Subchapter A, Chapter 29;

(C) collaborative strategies to increase active student involvement and motivation to read; and

(D) other areas identified by the commissioner as essential components of reading instruction; and

(3) for a teacher providing instruction in mathematics, science, or social studies to students at the sixth, seventh, or eighth grade level:

(A) strategies for incorporating reading instruction into the curriculum for the subject area taught by the teacher; and

(B) other areas identified by the commissioner.

(c) The commissioner by rule shall require a teacher to attend a reading academy if the teacher provides instruction in reading, mathematics, science, or social studies to students at the sixth, seventh, or eighth grade level at a campus that is considered academically unacceptable under Section 39.132 on the basis of student performance on the reading assessment instrument administered under Section 39.023(a) to students in any grade level at the campus.

(d) The commissioner shall adopt criteria for selection of teachers, other than teachers described by Subsection (c), who may attend a reading academy.

(e) From funds appropriated for that purpose, a teacher who attends a reading academy is entitled to receive a stipend in the amount determined by the commissioner. A stipend received under this subsection is not considered in determining whether a district is paying the teacher the minimum monthly salary under Section 21.402.

(f) On request of the commissioner, regional education service centers shall assist the commissioner and agency with training and other activities relating to the development and operation of reading academies. The commissioner may seek additional assistance from other public and private providers.

(g) From funds appropriated for purposes of this section, the commissioner shall conduct or contract with a public or private entity to conduct a comprehensive evaluation of the reading academies developed under this section. The evaluation must:

(1) use qualitative, quantitative, and expert review methodologies, including:

(A) direct observations;

(B) follow-up interviews and surveys with participating teachers and administrators; and

(C) analysis of student data submitted through the Public Education Information Management System (PEIMS) and student assessment results to measure reading progress achieved by students receiving instruction from teachers who attended a reading academy in comparison to:

(i) reading progress achieved by those students in preceding years; and

(ii) reading progress achieved by students receiving instruction from teachers who did not attend a reading academy; and

(2) include an analysis of financial data to assess the cost-effectiveness of the reading academies.

(h) Not later than December 1, 2010, the commissioner shall prepare and deliver to each member of the legislature a report describing the results of the evaluation required by Subsection (g). Subsection (g) and this subsection expire September 1, 2011.

Sec. 21.462. MATHEMATICS, SCIENCE, AND TECHNOLOGY TEACHER PREPARATION ACADEMIES. (a) From funds appropriated for that purpose, the Texas Higher Education Coordinating Board shall establish academies at institutions of higher education to improve the instructional skills of teachers certified under Subchapter B and train students enrolled in a teacher preparation program to perform at the highest levels in mathematics, science, and technology. The coordinating board may adopt rules as necessary to administer this section.

(b) Before an institution of higher education establishes an academy under this section, the institution must apply through a competitive process, as determined by the Texas Higher Education Coordinating Board, and meet any requirements established by the coordinating board for designation as an

academy under this section and continued funding. The institution of higher education must have a teacher preparation program approved by the State Board for Educator Certification or be affiliated with a program approved by the board.

(c) A participant in an academy program must be:

(1) an experienced teacher who:

(A) is recommended by a school district; and

(B) has at least five years experience teaching mathematics, science, or technology in assignments for which the teacher met all certification requirements; or

(2) a teacher preparation program candidate who has or will graduate with a degree in mathematics, science, or technology.

(d) An academy program shall:

(1) offer a masters-level degree as part of the program on a schedule that allows a teacher participant to complete the program and degree while employed as a teacher;

(2) coordinate with the mathematics, science, and technology departments of the institution of higher education operating the program to facilitate the ability of:

(A) academy participants to take advanced courses and qualify for degrees; and

(B) teacher preparation program candidates pursuing mathematics, science, or technology degrees to participate in academy programs;

(3) integrate advanced subject-matter coursework with instructional methodology and curriculum delivery; and

(4) focus on strengthening instructional skills.

(e) An academy program may:

(1) provide financial assistance for the purpose of allowing participants to complete the program and obtain a master teacher certificate under Section 21.0482, 21.0483, or 21.0484;

(2) include programs in leadership skills to develop training, mentoring, and coaching skills;

(3) deliver coursework electronically for some or all of the program; and

(4) provide for ongoing professional development and coordination with specific public school instructional programs.

SECTION 5. Section 25.091, Education Code, is amended by adding Subsection (b-1) to read as follows:

(b-1) A peace officer who has probable cause to believe that a child is in violation of the compulsory school attendance law under Section 25.085 may take the child into custody for the purpose of returning the child to the school campus of the child to ensure the child's compliance with compulsory school attendance requirements.

SECTION 6. Section 28.006, Education Code, is amended by adding Subsections (c-1) and (g-1) to read as follows:

(c-1) Each school district shall administer at the beginning of the seventh grade a reading instrument adopted by the commissioner to each student whose performance on the assessment instrument in reading administered under Section 39.023(a) to the student in grade six did not demonstrate reading proficiency, as determined by the commissioner. The district shall administer the reading instrument in accordance with the commissioner's recommendations under Subsection (a)(1).

(g-1) A school district shall provide additional reading instruction and intervention to each student in seventh grade assessed under Subsection (c-1), as appropriate to improve the student's reading skills in the relevant areas identified through the assessment instrument. Training and support for activities required by this subsection shall be provided by regional education service centers and teacher reading academies established under Section 21.4551, and may be provided by other public and private providers.

SECTION 8. Section 28.008, Education Code, is amended by adding Subsection (d-1) to read as follows:

(d-1) Beginning with the 2008-2009 school year, the State Board of Education shall incorporate college readiness standards and expectations into the essential knowledge and skills of the foundation curriculum under Section 28.002(a)(1) for courses in which students in grades nine through 12 generally enroll, as determined by board rule. This subsection expires December 1, 2012.

SECTION 9. (a) Subchapter A, Chapter 28, Education Code, is amended by adding Section 28.014 to read as follows:

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

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

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

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

(c) The agency, in consultation with the Texas Higher Education Coordinating Board, shall adopt an end-of-course assessment instrument for each course developed under this section to ensure the rigor of the course. A school district shall, in accordance with State Board of Education rules, administer the end-of-course assessment instrument to a student enrolled in a course developed under this section. Each school district shall adopt a policy that requires a student's performance on the end-of-course assessment instrument to account for 15 percent of the student's final grade for the course. A student's performance on

an end-of-course assessment instrument administered under this subsection may be used, on a scale of 0-40, in calculating whether the student satisfies the graduation requirements established under Section 39.025.

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

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

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

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

SECTION 9. Section 28.0211, Education Code, is amended by adding Subsection (l-1) and amending Subsection (m) to read as follows:

(l-1) The commissioner may adopt rules requiring a school district that receives federal funding under Title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. Section 6301 et seq.) to use that funding to provide supplemental educational services under 20 U.S.C. Section 6316 in conjunction with the accelerated instruction provided under this section, provided that the rules may not conflict with federal law governing the use of that funding.

(m) The commissioner shall certify, not later than July 1 of each school year or as soon as practicable thereafter, whether sufficient funds have been appropriated statewide for the purposes of this section. A determination by the commissioner is final and may not be appealed. For purposes of certification, the commissioner may not consider Foundation School Program funds. This section may be implemented only if the commissioner certifies that sufficient funds have

been appropriated during a school year for administering the accelerated instruction programs specified under this section, including teacher training for that purpose.

SECTION 10. Section 28.0212, Education Code, is amended by adding Subsections (d) and (e) to read as follows:

(d) The agency shall establish minimum standards for a personal graduation plan under this section.

(e) Each school district is encouraged to establish for each student entering grade nine a personal graduation plan that identifies a course of study that:

(1) promotes:

(A) college and workforce readiness; and

(B) career placement and advancement; and

(2) facilitates the student's transition from secondary to postsecondary education.

SECTION 11. Subchapter C, Chapter 29, Education Code, is amended by adding Sections 29.095 through 29.098 to read as follows:

Sec. 29.095. GRANTS FOR STUDENT CLUBS. (a) In this section:

(1) "Council" means the High School Completion and Success Initiative Council established under Subchapter L, Chapter 39.

(2) "Student at risk of dropping out of school" has the meaning assigned by Section 29.081(d).

(b) The commissioner shall administer a pilot program to provide grants to school districts to fund student club activities for students at risk of dropping out of school. From funds appropriated for purposes of this subchapter, the commissioner shall spend an amount not to exceed \$4 million in any state fiscal biennium on the program.

(c) The commissioner may award a grant in an amount not to exceed \$5,000 in a school year to a school district on behalf of a student club at a district high school campus that is eligible under the criteria established under Section 39.358. To be eligible for a grant, the student club and the club's sponsor must be sanctioned by the campus and district. A grant awarded under this program must be matched by other federal, state, or local funds, including donations, in an amount equal to the amount of the grant. A district shall seek donations or sponsorships from local businesses or community organizations to raise the matching funds. The commissioner may award a grant on behalf of more than one student club at a campus in the same school year.

(d) The commissioner shall establish application criteria for receipt of a grant under this section. The criteria must require confirmation that the appropriate campus-level planning and decision-making committee established under Subchapter F, Chapter 11, and the school district board of trustees have approved a plan that includes:

(1) a description of the student club;

(2) a statement of the student club's goals, intent, and activities;

(3) a statement of the source of funds to be used to match the grant;

(4) a budget for the student club;

(5) a statement showing that the student club's finances are sustainable;
and

(6) any other information the council requires.

(e) The commissioner shall establish the minimum requirements for a local grant agreement, including requiring:

(1) the agreement to be signed by the sponsor of a student club receiving a grant and another authorized school district officer; and

(2) the district and the student club to participate in an evaluation, as determined by the council, of the club's program and the program's effect on student achievement and dropout rates.

(f) A student club may use funds awarded under this section to support academic or co-curricular club activities, other than athletics, in which at least 50 percent of the participating students have been identified as students at risk of dropping out of school. A student club may use funds for materials, sponsor stipends, and other needs that directly support the club's activities. A student club must use the entire amount of the grant to directly fund the club's activities described in the plan approved as provided by Subsection (d). A student club may not use more than 50 percent of a grant to pay sponsor stipends.

(g) The school district board of trustees shall ensure that funds awarded under this section are expended in compliance with Subsection (f). At the end of the school year, a student club that receives a grant must submit a report to the board of trustees summarizing the club's activities and the extent to which the club met the club's goals and achieved the club's intent. The decision of the board of trustees under this subsection relating to compliance with Subsection (f) is final and may not be appealed.

Sec. 29.096. COLLABORATIVE DROPOUT REDUCTION PILOT PROGRAM. (a) In this section, "council" means the High School Completion and Success Initiative Council established under Subchapter L, Chapter 39.

(b) Using funds appropriated for that purpose in an amount not to exceed \$4 million each year, the commissioner shall establish a pilot program under which a school district or open-enrollment charter school may receive a grant to implement a local collaborative dropout reduction program.

(c) A school district or open-enrollment charter school is eligible to participate and receive a grant under this section under the eligibility criteria established under Section 39.358.

(d) The commissioner shall establish application criteria for receiving a grant under this section. The criteria must require a school district or open-enrollment charter school that applies for a grant to collaborate with local businesses, other local governments or law enforcement agencies, nonprofit organizations, faith-based organizations, and institutions of higher education to deliver proven, research-based intervention services. The goal of the program is to coordinate services and programs among local entities to:

(1) comprehensively reduce the number of students who drop out of school in that community; and

(2) increase the job skills, employment opportunities, and continuing education opportunities of students who might otherwise have dropped out of school.

(e) The commissioner shall establish minimum standards for a local collaborative agreement, including a requirement that the agreement must be signed by an authorized school district or open-enrollment charter school officer and an authorized representative of each of the other participating entities that is a partner in the collaboration. The program must:

(1) limit participation in the program to students authorized to participate by a parent or other person standing in parental relationship;

(2) have as a primary goal graduation from high school under at least the recommended high school program;

(3) provide for local businesses or other employers to offer paid employment or internship opportunities and advanced career and vocational training;

(4) include an outreach component and a lead educational staff member to identify and involve eligible students and public and private entities in participating in the program;

(5) serve a population of students of which at least 50 percent are identified as students at risk of dropping out of school, as described by Section 29.081(d);

(6) allocate not more than 15 percent of grant funds and matching funds, as determined by the commissioner, to administrative expenses;

(7) include matching funds from any of the participating entities; and

(8) include any other requirements as determined by the council.

(f) A local collaborative agreement under this section may:

(1) be coordinated with other services provided to students or their families by public or private entities;

(2) provide for local businesses to support the program, including:

(A) encouraging employees to engage in mentoring students and other school-related volunteer activities; and

(B) using matching funds to provide paid time off for volunteer activities under Paragraph (A) and other activities related to encouraging school involvement of parents of students enrolled in the program;

(3) allow grant funds to reimburse reasonable costs of participating entities;

(4) provide for electronic course delivery by a school district, an open-enrollment charter school, or an institution of higher education; and

(5) be hosted or housed by a chamber of commerce, local workforce agency, local employer, or other public or private participating entity.

(g) The commissioner may approve innovative instructional techniques for courses in the enrichment curriculum leading to high school graduation under a local collaborative dropout reduction program and shall develop accountability measures appropriate to those programs. From funds appropriated, the commissioner may fund electronic courses that are part of a collaborative program and that are otherwise eligible for state funds. Funding for an electronic

course may not exceed the total amount of state and local funding for a student to which the school district or open-enrollment charter school would otherwise be entitled.

(h) Nothing in this section authorizes the award of a high school diploma other than in compliance with Section 28.025.

(i) The commissioner shall adopt rules necessary to administer the pilot program under this section.

Sec. 29.097. INTENSIVE TECHNOLOGY-BASED ACADEMIC INTERVENTION PILOT PROGRAM. (a) In this section:

(1) "Council" means the High School Completion and Success Initiative Council established under Subchapter L, Chapter 39.

(2) "Pilot program" means the intensive technology-based academic intervention pilot program.

(b) From funds appropriated for that purpose in an amount not to exceed \$3 million each year, the commissioner shall establish a pilot program for the commissioner to award grants to participating campuses to provide intensive technology-based supplementary instruction in English, mathematics, science, or social studies to students in grades nine through 12 identified as being at risk of dropping out of school, as described by Section 29.081(d). Instruction techniques and technology used by a campus under this section must be based on the best available research, as determined by the council, regarding college and workforce readiness.

(c) The commissioner may select for participation in the pilot program only a campus that is eligible under the criteria established under Section 39.358.

(d) A program supported by a grant under this section to provide intensive technology-based supplementary instruction at a campus may:

(1) include comprehensive course plans and teacher guides that are aligned with one or more subjects of the foundation curriculum described by Section 28.002(a)(1);

(2) include technology-based supplementary instruction;

(3) include training, professional development, and mentoring for teachers;

(4) provide students individual access to technology-based supplementary instruction at least 90 minutes each week;

(5) demonstrate significant effectiveness in high schools serving students identified as being at risk of dropping out of school, as described by Section 29.081(d);

(6) be selected in consultation with the teachers at the affected campus;
and

(7) be implemented in partnership with institutions of higher education.

(e) The primary purpose of a program supported by a grant under this section to provide intensive technology-based supplementary instruction at a campus is to benefit students identified as being at risk of dropping out of school, as described by Section 29.081(d), but grant funds may be used to benefit a campus-wide program if the use of the funds does not defeat the primary purpose provided by this subsection.

(f) A grant awarded under this section:

(1) may not exceed \$50 for each participating student; and

(2) must be matched by other federal, state, or local funds, including private donations.

(g) For purposes of Subsection (f)(2), a school district is encouraged to use funds allocated under Section 42.2516(b)(3).

(h) A grant awarded under this section may not be used to replace federal, state, or local funds previously spent on an instructional program, but may be used to expand an existing program.

(i) The entire amount of a grant awarded under this section:

(1) must fund the program described in the application for the grant;
and

(2) may be used for:

(A) supplementary instructional support systems;

(B) technology used primarily for the delivery of supplementary instruction;

(C) teacher training and professional development; and

(D) other necessary costs, as determined by the commissioner.

Sec. 29.098. INTENSIVE SUMMER PROGRAMS. (a) In this section, "pilot program" means the intensive summer pilot program for students identified as being at risk of dropping out of school or college.

(b) From funds appropriated for that purpose, the commissioner of education and the commissioner of higher education by rule shall establish a pilot program to award grants to participating campuses to provide intensive academic instruction during the summer semester to promote college and workforce readiness to students identified as being at risk of dropping out of school or college. A grant awarded under this section may be used to fund any of the following categories of programs:

(1) a program administered by an institution of higher education to provide intensive academic instruction in English language arts, mathematics, and science to facilitate the student's transition from high school to a postsecondary institution;

(2) a program administered by a school district in partnership with an institution of higher education to provide intensive academic instruction in English language arts, mathematics, and science to promote high school completion and college readiness; and

(3) a program administered by a school district in partnership with an institution of higher education to provide intensive academic instruction in reading and mathematics to students in grades six through eight to promote high school completion and college readiness.

(c) The commissioner of education may select for participation in the pilot program only a campus that is eligible under the criteria established under Section 39.358.

(d) A grant may be awarded to an institution of higher education for a program administered under Subsection (b)(1) only if at least 50 percent of the students served in the program:

(1) have a score on the Scholastic Assessment Test (SAT) or American College Test (ACT) that is equal to a score less than the national mean score;

(2) have been awarded a grant under the federal Pell grant program;

(3) are at least 20 years of age on the date the student initially enrolls in the institution of higher education; or

(4) have enrolled or will initially enroll as a part-time student.

(e) A program supported by a grant to provide intensive summer instruction under this section must:

(1) provide rigorous academic instruction;

(2) provide at least four weeks of instruction; and

(3) for a program described by Subsection (b)(2) or (3), be designed and implemented in partnership with an institution of higher education.

(f) To the extent practicable, an institution of higher education shall create work-study opportunities for students enrolled in teacher preparation programs to assist in providing instruction in programs described by this section.

(g) A grant awarded under this section:

(1) may not exceed \$750 for each participating student; and

(2) must be matched by not less than \$250 for each participating student in other federal, state, or local funds, including private donations.

(h) For purposes of Subsection (g)(2), a school district is encouraged to use funds allocated under Section 42.2516(b)(3).

(i) A grant awarded under this section may not be used to replace federal, state, or local funds previously spent on a summer intensive program, but may be used to expand an existing program.

(j) The entire amount of a grant awarded under this section:

(1) must fund the program described in the application for the grant;
and

(2) may be used for:

(A) instructional materials;

(B) technology used primarily for the delivery of supplementary instruction;

(C) teacher training and professional development, including educator stipends; and

(D) other necessary costs, as determined by the commissioner of education.

(k) Instructional materials adopted by the State Board of Education shall be used for instruction in a program under Subsection (b)(2) or (3). The State Board of Education may adopt any additional instructional materials as necessary for a program under Subsection (b)(2) or (3). The Texas Higher Education Coordinating Board may adopt instructional materials as necessary for students enrolled in a program under Subsection (b)(1).

(l) The State Board of Education and the Texas Higher Education Coordinating Board shall include information technology instructional resources that incorporate established best practices for instruction among approved instructional materials for intensive summer programs under this section to enhance the effectiveness of the programs.

SECTION 12. Subchapter Z, Chapter 29, Education Code, is amended by adding Sections 29.911, 29.917, 29.918, and 29.919 to read as follows:

Sec. 29.911. "EDUCATION: GO GET IT" WEEK. (a) To educate middle school, junior high school, and high school students about the importance of higher education, each school district and each open-enrollment charter school offering any of those grade levels shall designate one week during the school year as "Education: Go Get It" Week.

(b) During the designated week, each middle school, junior high school, and high school shall provide students with comprehensive grade-appropriate information regarding the pursuit of higher education. The information provided must include information regarding:

(1) higher education options available to students;

(2) standard admission requirements for institutions of higher education, including:

(A) overall high school grade point average;

(B) required curriculum; and

(C) scores necessary on generally recognized tests or assessment instruments used in admissions determinations, including the Scholastic Assessment Test and the American College Test;

(3) automatic admission of certain students to general academic teaching institutions as provided by Section 51.803; and

(4) financial aid availability and requirements, including the financial aid information provided by counselors under Section 33.007(b).

(c) In addition to the information provided under Subsection (b), each middle school, junior high school, and high school shall provide to the students during the designated week at least one public speaker to promote the importance of higher education.

Sec. 29.917. HIGHER EDUCATION AND WORKFORCE READINESS PROGRAMS. (a) From funds appropriated for the purpose, the commissioner may award grants to organizations that provide volunteers to teach classroom or after-school programs to enhance:

(1) college readiness;

(2) workforce readiness;

(3) dropout prevention; or

(4) personal financial literacy.

(b) To implement or administer a program under this section, the commissioner may accept gifts, grants, and donations from public or private entities.

(c) The commissioner may conduct a study of the programs under this section to determine the success of the programs in preparing students for higher education and participation in the workforce.

Sec. 29.918. DROPOUT PREVENTION STRATEGIES. (a) Notwithstanding Section 39.114 or 42.152, a school district or open-enrollment charter school with a high dropout rate, as determined by the commissioner, must submit a plan to the commissioner describing the manner in which the district or charter school intends to use the compensatory education allotment under Section

42.152 and the high school allotment under Section 42.2516(b)(3) for developing and implementing research-based strategies for dropout prevention. The district or charter school shall submit the plan not later than December 1 of each school year preceding the school year in which the district or charter school will receive the compensatory education allotment or high school allotment to which the plan applies.

(b) A school district or open-enrollment charter school to which this section applies may not spend or obligate more than 25 percent of the district's or charter school's compensatory education allotment or high school allotment unless the commissioner approves the plan submitted under Subsection (a). The commissioner shall complete an initial review of the district's or charter school's plan not later than March 1 of the school year preceding the school year in which the district or charter school will receive the compensatory education allotment or high school allotment to which the plan applies.

(c) The commissioner shall adopt rules to administer this section. The commissioner may impose sanctions under Section 39.131 or 39.1321 if a school district or open-enrollment charter school fails to timely comply with this section.

Sec. 29.919. TECHNOLOGY-BASED SUPPLEMENTAL INSTRUCTION PILOT PROGRAM. (a) The commissioner shall establish a pilot program under which state grant funds are provided to finance technology-based supplemental instruction to students at the sixth through 12th grade levels at participating campuses.

(b) A campus is eligible to participate in the program and receive state grant funds if the campus is located in a school district that:

(1) has an enrollment of fewer than 5,000 students; and

(2) is not located in an area defined by the United States Office of Management and Budget as a standard metropolitan statistical area as of January 1, 2007.

(c) The commissioner shall develop an application and selection process for selecting campuses to participate in the program. The commissioner shall give priority to a campus that offers a relatively limited course selection to students, in comparison to the course selections generally offered to students in metropolitan areas.

(d) A campus selected to participate in the program is entitled to receive state grant funds in an amount not to exceed \$200 each school year for each student in an eligible grade level served through the program. The state grant funds must be used to provide technology-based supplemental instruction for students at the eligible grade levels. Permissible expenditures under the program include costs incurred to provide:

(1) research-based instructional support;

(2) teacher training;

(3) academic tutoring or counseling;

(4) distance learning opportunities that use the Internet and are aligned with the essential knowledge and skills adopted under Section 28.002 for the subject areas of English language arts, social studies, mathematics, science, and languages other than English, as applicable; and

(5) distance learning opportunities that enable students to earn college credit in the subject areas of English language arts, social studies, mathematics, science, or languages other than English.

(e) As a condition of receiving a state grant, a campus must contribute additional funding for activities provided at the campus through the program, in an amount equal to at least \$100 each school year for each student in an eligible grade level served through the program. The additional funding required by this subsection may consist of local funds, private funds, or state funds other than grant funds provided under this section. For program activities provided at the high school level, the high school allotment provided under Section 42.2516(b)(3) may be used to meet the additional funding requirement prescribed by this subsection.

(f) A campus participating in the program must provide students with individual access to technology-based supplemental instruction for at least 10 hours each week.

(g) The commissioner shall pay the costs of the program using funds available for that purpose, not to exceed \$4 million each fiscal year or a greater amount specified by the General Appropriations Act.

(h) Using funds available for the program in an amount not to exceed \$150,000 each fiscal year, the commissioner shall contract for an evaluation of the program's effectiveness in improving student performance. Not later than December 1, 2008, the commissioner shall deliver an interim report containing the results of the evaluation. Not later than December 1, 2010, the commissioner shall deliver a final report regarding the program to the legislature.

(i) The commissioner shall adopt rules necessary to implement this section.

(j) This section expires September 1, 2011.

SECTION 13. Subchapter F, Chapter 39, Education Code, is amended by adding Sections 39.115 and 39.116 to read as follows:

Sec. 39.115. HIGH SCHOOL INNOVATION GRANT INITIATIVE.

(a) From funds appropriated for that purpose, the commissioner may establish a grant program under which grants are awarded to secondary campuses and school districts to support:

(1) the implementation of innovative high school improvement programs that are based on the best available research regarding high school reform, dropout prevention, and preparing students for postsecondary coursework or employment;

(2) enhancing education practices that have been demonstrated by significant evidence of effectiveness; and

(3) the alignment of grants and programs to the strategic plan adopted under Section 39.357.

(b) Before awarding a grant under this section, the commissioner may require a campus or school district to:

(1) obtain local matching funds; or

(2) meet other conditions, including developing a personal graduation plan under Section 28.0212 for each student enrolled at the campus or in a district high school.

(c) The commissioner may:

(1) accept gifts, grants, or donations from a private foundation to implement a grant program under this section; and

(2) coordinate gifts, grants, or donations with other available funding to implement a grant program under this section.

(d) The commissioner may use funds appropriated under this section to support technical assistance services for school districts and open-enrollment charter schools to implement a high school improvement program under this section.

Sec. 39.116. INITIATIVE FOR RETAINING QUALITY EDUCATORS. Notwithstanding Section 39.1324(b), a school district, to assist in preventing dropouts and disruptions that may result from certain mandatory sanctions, may retain at a campus a principal who has been employed at the campus as a principal during the two-year period described by Section 39.1324(a) if the students enrolled at the campus have demonstrated a pattern of significant academic improvement.

SECTION 14. Chapter 39, Education Code, is amended by adding Subchapter L to read as follows:

SUBCHAPTER L. HIGH SCHOOL COMPLETION AND SUCCESS

INITIATIVE

Sec. 39.351. DEFINITION. In this subchapter, "council" means the High School Completion and Success Initiative Council.

Sec. 39.352. HIGH SCHOOL COMPLETION AND SUCCESS INITIATIVE COUNCIL. (a) The High School Completion and Success Initiative Council is established to identify strategic priorities for and make recommendations to improve the effectiveness, coordination, and alignment of high school completion and college and workforce readiness efforts.

(b) The council is composed of:

(1) the commissioner of education;

(2) the commissioner of higher education; and

(3) seven members appointed by the commissioner of education.

(c) In making appointments required by Subsection (b)(3), the commissioner of education shall appoint:

(1) three members from a list of nominations provided by the governor;

(2) two members from a list of nominations provided by the lieutenant governor; and

(3) two members from a list of nominations provided by the speaker of the house of representatives.

(d) In making nominations under Subsection (c), the governor, lieutenant governor, and speaker of the house of representatives shall nominate persons who have distinguished experience in:

(1) developing and implementing high school reform strategies; and

(2) promoting college and workforce readiness.

Sec. 39.353. TERMS. Members of the council appointed under Section 39.352(b)(3) serve terms of two years and may be reappointed for additional terms.

Sec. 39.354. PRESIDING OFFICER. The commissioner of education serves as the presiding officer of the council.

Sec. 39.355. COMPENSATION AND REIMBURSEMENT. A member of the council is not entitled to compensation for service on the council but is entitled to reimbursement for actual and necessary expenses incurred in performing council duties.

Sec. 39.356. COUNCIL STAFF AND FUNDING. (a) Except as otherwise provided, staff members of the agency, with the assistance of the Texas Higher Education Coordinating Board, shall provide administrative support for the council.

(b) Funding for the administrative and operational expenses of the council shall be provided by appropriation to the agency for that purpose and by gifts, grants, and donations solicited and accepted by the agency for that purpose.

Sec. 39.357. STRATEGIC PLAN. (a) The council shall adopt a strategic plan under this subchapter to:

(1) specify strategies to identify, support, and expand programs to improve high school completion rates and college and workforce readiness;

(2) establish specific goals with which to measure the success of the strategies identified under Subdivision (1) in improving high school completion rates and college and workforce readiness;

(3) identify strategies for alignment and coordination of federal and other funding sources that may be pursued for high school reform, dropout prevention, and preparation of students for postsecondary coursework or employment; and

(4) identify key objectives for appropriate research and program evaluation conducted as provided by this subchapter.

(b) The commissioner of education and the commissioner of higher education shall adopt rules as necessary to administer the strategic plan adopted by the council under this section.

(c) The commissioner of education or the commissioner of higher education may not, in a manner inconsistent with the strategic plan, spend money, award a grant, or enter into a contract in connection with a program relating to high school success and completion.

(d) Notwithstanding Subsection (c), the commissioner of education, commissioner of higher education, or State Board of Education may use funds appropriated for high school success and completion to continue a project, grant, or initiative relating to high school success and completion that was developed before January 1, 2007. This subsection expires March 15, 2008.

Sec. 39.358. ELIGIBILITY CRITERIA FOR CERTAIN GRANT PROGRAMS. A school district or campus is eligible to participate in programs under Sections 21.4541, 29.095, 29.096, 29.097, and 29.098 if the district or campus exhibited during each of the three preceding school years characteristics that strongly correlate with high dropout rates.

Sec. 39.359. PRIVATE FOUNDATION PARTNERSHIPS. (a) The commissioner of education or the commissioner of higher education, as appropriate, and the council may coordinate with private foundations that have made a substantial investment in the improvement of high schools in this state to maximize the impact of public and private investments.

(b) A private foundation is not required to obtain the approval of the appropriate commissioner or the council under Subsection (a) before allocating resources to a school in this state.

Sec. 39.360. GRANT PROGRAM EVALUATION. (a) The commissioner of education shall annually set aside not more than five percent of the funds appropriated for high school completion and success to contract for the evaluation of programs supported by grants approved under this subchapter. In awarding a contract under this subsection, the commissioner shall consider centers for education research established under Section 1.005.

(b) A person who receives a grant approved under this subchapter must consent to an evaluation under this section as a condition of receiving the grant.

(c) The commissioner shall ensure that an evaluation conducted under this section includes an assessment of whether student achievement has improved. Results of the evaluation shall be provided through the online clearinghouse of information relating to the best practices of campuses and school districts established under Section 7.009.

Sec. 39.361. COUNCIL RECOMMENDATIONS. (a) Based on the strategic plan adopted under this section, the council shall make recommendations to the commissioner of education or the commissioner of higher education, as applicable, for the use of federal and state funds appropriated or received for high school reform, college readiness, and dropout prevention, including grants awarded under Sections 21.4511, 21.4541, 29.095-29.098, 29.917, 29.919, and 39.115.

(b) The council shall include recommendations under this section for:

- (1) key elements of program design;
- (2) criteria for awarding grants and evaluating programs;
- (3) program funding priorities; and
- (4) program evaluation as provided by this subchapter.

(c) The commissioner of education or the commissioner of higher education, as applicable, shall consider the council's recommendations and based on those recommendations may award grants to school districts, open-enrollment charter schools, institutions of higher education, regional education service centers, and nonprofit organizations to meet the goals of the council's strategic plan.

(d) The commissioner of education or the commissioner of higher education, as applicable:

(1) is not required under this section to allocate funds to a program or initiative recommended by the council; and

(2) may not initiate a program funded under this section that does not conform to the recommended use of funds as provided under Subsections (a) and (b).

Sec. 39.362. FUNDING PROVIDED TO SCHOOL DISTRICTS. From funds appropriated, the commissioner of education may provide funding to school districts to permit a school district to obtain technical assistance in preparing a grant proposal for a grant program administered under this subchapter.

Sec. 39.363. FUNDING FOR CERTAIN PROGRAMS. (a) From funds appropriated, the Texas Higher Education Coordinating Board shall allocate \$8.75 million each year to establish mathematics, science, and technology teacher preparation academies under Section 21.462 and implement and administer the program under Section 29.098.

(b) The Texas Higher Education Coordinating Board shall establish mathematics, science, and technology teacher preparation academies under Section 21.462 and implement and administer the program under Section 29.098 in a manner consistent with the goals of this subchapter and the goals in "Closing the Gaps," the state's master plan for higher education.

Sec. 39.364. PRIVATE FUNDING. The commissioner of education or the commissioner of higher education, as appropriate, may accept gifts, grants, or donations to fund a grant administered under this subchapter.

Sec. 39.365. REPORTS. (a) Not later than December 1 of each even-numbered year, the agency shall prepare and deliver a report to the legislature that recommends any statutory changes the council considers appropriate to promote high school completion and college and workforce readiness.

(b) Not later than March 1 and September 1 of each year, the commissioner of education shall prepare and deliver a progress report to the presiding officers of the standing committees of each house of the legislature with primary jurisdiction over public education, the Legislative Budget Board, and the Governor's Office of Policy and Planning on:

(1) the implementation of Sections 7.031, 21.4511, 21.4541, 21.462, 28.008(d-1), 28.0212(d), 29.095-29.098, 29.911, 29.917-29.919, and 39.115 and this subchapter;

(2) the programs supported by grants approved under this subchapter; and

(3) the alignment of grants and programs to the strategic plan adopted under Section 39.357.

Sec. 39.366. RULES. The commissioner of education and the commissioner of higher education shall adopt rules as necessary to administer this subchapter and any programs under the authority of the commissioner of education or the commissioner of higher education and the council under this subchapter.

SECTION 15. Section 42.158, Education Code, is amended by amending Subsection (d) and adding Subsection (d-1) to read as follows:

(d) Subject to Subsection (d-1), the ~~[The]~~ amount appropriated for allotments under this section may not exceed \$25 million in a school year. If the total amount of allotments to which districts are entitled under this section for a

school year exceeds the amount appropriated ~~[for allotments]~~ under this subsection ~~[section]~~, the commissioner shall reduce each district's allotment under this section in the manner provided by Section 42.253(h).

(d-1) In addition to the appropriation amount described by Subsection (d), the amount of \$1 million may be appropriated each school year to supplement the allotment to which a school district is entitled under this section that may be provided using the appropriation amount described by Subsection (d). The commissioner shall first apply the funds appropriated under this subsection to prevent any reduction under Subsection (d) in the allotment for attendance at an eligible high school instructional facility, subject to the maximum amount of \$250 for each student in average daily attendance. Any funds remaining after preventing all reductions in amounts due for high school instructional facilities may be applied proportionally to all other eligible instructional facilities, subject to the maximum amount of \$250 for each student in average daily attendance.

SECTION 16. Section 52.01, Family Code, is amended by adding Subsection (e) to read as follows:

(e) A law-enforcement officer who has probable cause to believe that a child is in violation of the compulsory school attendance law under Section 25.085, Education Code, may take the child into custody for the purpose of returning the child to the school campus of the child to ensure the child's compliance with compulsory school attendance requirements.

SECTION 17. Section 28.0211(l), Education Code, is repealed.

SECTION 18. (a) The commissioner of education shall prepare and deliver to the governor, the lieutenant governor, the speaker of the house of representatives, and the presiding officers of the standing committees of each house of the legislature with primary jurisdiction over public education a preliminary report on or before December 1, 2008, and a final report on or before December 1, 2010, as described by Subsection (b) of this section.

(b) The reports referred to in Subsection (a) of this section must include an assessment of the impact of programs for which grants have been awarded under Subchapter L, Chapter 39, Education Code, as added by this Act, on:

(1) student performance on assessment instruments administered under Subchapter B, Chapter 39, Education Code;

(2) high school completion rates;

(3) college readiness of high school students;

(4) teacher effectiveness in instruction;

(5) cost-effectiveness of the programs; and

(6) any other factors the commissioner of education determines relevant.

SECTION 19. (a) Except as otherwise provided by this Act, this Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007, except as otherwise provided by this Act.

(b) Section 52.01(e), Family Code, as added by this Act, and Section 25.091(b-1), Education Code, as added by this Act, take effect September 1, 2007.

Representative Eissler moved to adopt the conference committee report on **HB 2237**.

A record vote was requested.

The motion to adopt the conference committee report on **HB 2237** prevailed by (Record 2037): 138 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Keffer; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Moreno; Morrison; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler.

Present, not voting — Mr. Speaker; Gattis(C).

Absent, Excused — Allen; Chavez.

Absent — Jones; King, S.; Mowery; Pierson; Riddle; Ritter; Talton; Zerwas.

STATEMENT OF VOTE

When Record No. 2037 was taken, my vote failed to register. I would have voted yes.

S. King

HR 2863 - ADOPTED

Representative Driver moved to suspend Rule 8, Section 13 to consider **HR 2863**.

A record vote was requested.

The motion prevailed by (Record 2038): 143 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb;

Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Moreno; Morrison; Mowery; Murphy; Naishtat; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker; Gattis(C).

Absent, Excused — Allen; Chavez.

Absent — Noriega; Ritter; Turner.

The following privileged resolution was laid before the house:

HR 2863

BE IT RESOLVED by the House of Representatives of the State of Texas, 80th Legislature, Regular Session, 2007, That House Rule 13, Section 9(a), be suspended in part as provided by House Rule 13, Section 9(f), to enable the conference committee appointed to resolve the differences on **HB 2833** (the licensing and regulation of certain private security services) to consider and take action on the following matter:

House Rule 13, Section 9(a)(1), is suspended to permit the committee to change the text of SECTION 5 of the bill by substituting Paragraph (C), Subdivision (2), Subsection (c), Section 1702.113, Occupations Code, to read as follows:

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

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

House Rule 13, Section 9(a)(1), is suspended to permit the committee to change the text of SECTION 5 of the bill by substituting Paragraph (C), Subdivision (3), Subsection (c), Section 1702.113, Occupations Code, to read as follows:

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

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

HR 2863 was adopted.

HB 2833 - RULES SUSPENDED

Representative Driver moved to suspend all necessary rules to consider the conference committee report on **HB 2833**.

A record vote was requested.

The motion prevailed by (Record 2039): 140 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Moreno; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Rodriguez; Rose; Smith, W.; Smithee; Strama; Straus; Swinford; Talton; Taylor; Thompson; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker; Gattis(C).

Absent, Excused — Allen; Chavez.

Absent — Hartnett; Jones; Ritter; Smith, T.; Solomons; Truitt.

HB 2833 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Driver submitted the following conference committee report on **HB 2833**:

Austin, Texas, May 26, 2007

The Honorable David Dewhurst
President of the Senate

The Honorable Tom Craddick
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 2833** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Seliger
Deuell

Driver
Bonnen

Hegar
Van de Putte
Williams
On the part of the senate

Latham
Taylor
West
On the part of the house

HB 2833, A bill to be entitled An Act relating to the licensing and regulation of certain private security services.

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

SECTION 1. Section 1702.004, Occupations Code, is amended to read as follows:

Sec. 1702.004. GENERAL SCOPE OF REGULATION. (a) The board [~~commission~~], in addition to performing duties required by other law or exercising powers granted by other law:

(1) licenses investigations companies and security services contractors;
(2) issues commissions to certain security officers;
(3) issues authorizations to certain security officers engaged in the personal protection of individuals;

(4) registers:

(A) certain individuals connected with a license holder; and

(B) certain individuals employed in a field connected to private investigation or private security; and

(5) regulates license holders, security officers, and registrants under this chapter.

(b) Chapter 53 does not apply to this chapter or to any licensing, regulatory, or disciplinary determinations made under this chapter.

SECTION 2. Subchapter E, Chapter 1702, Occupations Code, is amended by adding Section 1702.085 to read as follows:

Sec. 1702.085. CONFIDENTIALITY OF RECORDS. Records maintained by the department under this chapter on the home address, home telephone number, driver's license number, or social security number of an applicant or a license holder, registrant, or security officer commission holder are confidential and are not subject to mandatory disclosure under Chapter 552, Government Code.

SECTION 3. Section 1702.102(a), Occupations Code, is amended to read as follows:

(a) Unless the person holds a license as a security services contractor, a person may not:

(1) act as an alarm systems company, armored car company, courier company, guard company, ~~or~~ guard dog company, locksmith company, or private security consultant company;

(2) offer to perform the services of a company in Subdivision (1); or

(3) engage in business activity for which a license is required under this chapter.

SECTION 4. Section 1702.104, Occupations Code, is amended to read as follows:

Sec. 1702.104. INVESTIGATIONS COMPANY. (a) A person acts as an investigations company for the purposes of this chapter if the person:

(1) engages in the business of obtaining or furnishing, or accepts employment to obtain or furnish, information related to:

(A) crime or wrongs done or threatened against a state or the United States;

(B) the identity, habits, business, occupation, knowledge, efficiency, loyalty, movement, location, affiliations, associations, transactions, acts, reputation, or character of a person;

(C) the location, disposition, or recovery of lost or stolen property; or

(D) the cause or responsibility for a fire, libel, loss, accident, damage, or injury to a person or to property;

(2) engages in the business of securing, or accepts employment to secure, evidence for use before a court, board, officer, or investigating committee;

(3) engages in the business of securing, or accepts employment to secure, the electronic tracking of the location of an individual or motor vehicle other than for criminal justice purposes by or on behalf of a governmental entity; or

(4) engages in the business of protecting, or accepts employment to protect, an individual from bodily harm through the use of a personal protection officer.

(b) For purposes of Subsection (a)(1), obtaining or furnishing information includes information obtained or furnished through the review and analysis of, and the investigation into the content of, computer-based data not available to the public.

SECTION 5. Section 1702.113, Occupations Code, is amended to read as follows:

Sec. 1702.113. GENERAL QUALIFICATIONS FOR LICENSE, CERTIFICATE OF REGISTRATION, OR SECURITY OFFICER COMMISSION. (a) An applicant for a license, certificate of registration, or security officer commission or the applicant's manager must be at least 18 years of age and must not:

(1) have been convicted in any jurisdiction of two or more felony offenses [a Class A misdemeanor or equivalent offense or a greater offense], unless [a] full pardons have [pardon has] been granted for all convictions for reasons relating to [a] wrongful convictions [conviction];

(2) have been convicted in any jurisdiction of any of the following:

(A) a single felony or equivalent offense for which the 20th anniversary of the date of conviction has not occurred before the date of application, unless a full pardon has been granted for reasons relating to a wrongful conviction; or

(B) a Class A misdemeanor or equivalent offense for which the 10th anniversary of the date of conviction has not occurred before the date of application, unless a full pardon has been granted for reasons relating to a wrongful conviction;

(3) at the time of application be charged with the commission of a Class A misdemeanor or felony offense, under an information or indictment;

(4) in the 10 years preceding the date of application, have been adjudicated as having engaged in delinquent conduct violating a penal law of the grade of felony;

(5) ~~[a Class B misdemeanor or equivalent offense for which the fifth anniversary of the date of conviction has not occurred before the date of application, unless a full pardon has been granted for reasons relating to a wrongful conviction;~~

[~~(3)~~] have been found by a court to be incompetent by reason of a mental defect or disease and not have been restored to competency;

(6) ~~[(4) be suffering from habitual drunkenness or from narcotics addiction or dependence; or~~

[~~(5)~~] have been dishonorably discharged from the United States armed services, discharged from the United States armed services under other ~~[than honorable]~~ conditions determined by the board to be prohibitive, or dismissed from the United States armed services if a commissioned officer in the United States armed services; or

(7) be required to register in this or any other state as a sex offender, unless the applicant is approved by the board under Section 1702.3615.

(b) ~~An applicant is ineligible [The commission may deny an application] for a license, certificate of registration, or commission if the applicant has charges pending for or has been convicted in any jurisdiction of a Class B misdemeanor for an [or equivalent] offense determined by the board to be disqualifying if the fifth anniversary of the date of conviction has not occurred before the date of application, unless a full pardon has been granted for reasons relating to a wrongful conviction.~~

(c) For purposes of this section, an offense under the laws of this state, another state, or the United States is considered:

(1) a felony if the offense:

(A) at the time of conviction was designated by a law of this state as a felony, including a state jail felony;

(B) contains all the elements of an offense designated by a law of this state as a felony, including a state jail felony; or

(C) is punishable by confinement for one year or more in a penitentiary;

(2) a Class A misdemeanor if the offense is not a felony and the offense:

(A) at the time of conviction was designated by a law of this state as a Class A misdemeanor;

(B) contains all the elements of an offense designated by a law of this state as a Class A misdemeanor; or

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

(3) a Class B misdemeanor if the offense is not a felony or Class A misdemeanor and the offense:

(A) at the time of conviction was designated by a law of this state as a Class B misdemeanor;

(B) contains all the elements of an offense designated by a law of this state as a Class B misdemeanor; or

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

(d) For purposes of this section, "convicted" has the meaning provided in Section 1702.371.

(e) An individual's eligibility under this chapter is not affected by any relationship or lack of relationship between the nature of the criminal charges or conviction and the regulated occupation.

SECTION 6. Section 1702.119(b), Occupations Code, is amended to read as follows:

(b) An individual may not act as a manager until the individual has:

(1) demonstrated the individual's qualifications by passing the written examination required by Section 1702.117(a); and

(2) made a satisfactory showing to the department ~~[commission]~~ that the individual:

(A) satisfies the requirements of Section 1702.113 and meets all qualification and experience requirements set by rule for a manager of the type of company for which the individual is applying [either Section 1702.114 or Section 1702.115, as appropriate]; and

(B) has not engaged in conduct regarding a violation or conviction that is grounds for disciplinary action under Section 1702.361(b) or 1702.3615(a).

SECTION 7. Sections 1702.124(a), (b), and (e), Occupations Code, are amended to read as follows:

(a) An applicant is not eligible for ~~[The commission may not issue]~~ a license unless the applicant provides as part of the application ~~[files with the commission]~~:

(1) a certificate of insurance or other documentary evidence of a general liability insurance policy [on a certificate of insurance form prescribed by the Texas Department of Insurance and] countersigned by an insurance agent licensed in this state; or

(2) a certificate of insurance for surplus lines coverage obtained under Chapter 981, Insurance Code, through a licensed Texas surplus lines agent resident in this state.

(b) The general liability insurance policy must be conditioned to pay on behalf of the license holder damages that the license holder becomes legally obligated to pay because of bodily injury, property damage, or personal injury, caused by an event involving the principal, or an officer, agent, or employee of the principal, in the conduct of any activity or service for which the license holder is [business] licensed under this chapter.

(e) An insurance certificate executed and filed with the department ~~[commission]~~ under this chapter remains in effect until the insurer terminates future liability by providing to the department ~~[commission]~~ at least 10 days' notice of the intent to terminate liability.

SECTION 8. Section 1702.133(b), Occupations Code, is amended to read as follows:

(b) A license holder or an officer, director, partner, or manager of a license holder shall disclose to a law enforcement officer or a district attorney, or that individual's representative, information the person obtains that relates to a criminal offense. A private investigator who is working under the direct supervision of a licensed attorney satisfies this requirement by disclosing the information to the supervising attorney.

SECTION 9. Section 1702.163, Occupations Code, is amended to read as follows:

Sec. 1702.163. QUALIFICATIONS FOR SECURITY OFFICER COMMISSION. (a) An applicant employed by a license holder is not eligible for ~~[The board may not issue]~~ a security officer commission ~~[to an applicant employed by a license holder]~~ unless the applicant submits as part of the application ~~[evidence]~~ satisfactory evidence ~~[to the board]~~ that the applicant has:

(1) completed the basic training course at a school or under an instructor approved by the board;

(2) met each qualification established by this chapter and administrative ~~[board]~~ rule;

(3) achieved the score required by the board on the examination under Section 1702.1685; and

(4) demonstrated to the satisfaction of the firearm training instructor that the applicant has complied with other board standards for minimum marksmanship competency with a handgun.

(b) An individual is not eligible for ~~[The commission may not issue]~~ a security officer commission if the ~~[to an]~~ individual ~~[who]~~:

(1) is disqualified by state or federal law from owning or possessing a firearm ~~[younger than 18 years of age]~~;

(2) is incapable of exercising sound judgment in the proper use and storage of a handgun ~~[a convicted felon]~~; ~~[or]~~

(3) is a fugitive from justice for a felony or a Class A or Class B misdemeanor;

(4) is a chemically dependent person; or

(5) is currently restricted under a court protective order or subject to a restraining order affecting the spousal relationship, other than a restraining order solely affecting property interests ~~[has committed an act that, if committed by a license holder, would be grounds for suspension or revocation of a license]~~.

(c) An individual who has been convicted twice in the 10-year period preceding the date on which the person applies for a security officer commission of an offense of the grade of Class B misdemeanor or greater that involves the use of alcohol or a controlled substance as a statutory element of the offense is a chemically dependent person for purposes of this section and is not qualified to receive a security officer commission under this subchapter. This subsection does not preclude the disqualification of an individual for being a chemically dependent person if other evidence exists to demonstrate that the person is a chemically dependent person.

(d) For purposes of Subsection (b)(2), a person is incapable of exercising sound judgment with respect to the proper use and storage of a handgun if the person:

(1) has been diagnosed by a licensed physician as suffering from a psychiatric disorder or condition that causes or is likely to cause substantial impairment in judgment, mood, perception, impulse control, or intellectual ability;

(2) suffers from a psychiatric disorder or condition described by Subdivision (1) that:

(A) is in remission but is reasonably likely to redevelop at a future time; or

(B) requires continuous medical treatment to avoid redevelopment;

(3) has been diagnosed by a licensed physician or declared by a court as incompetent to manage the person's own affairs; or

(4) has entered a plea of not guilty by reason of insanity in a criminal proceeding.

(e) The following constitutes evidence that a person has a psychiatric disorder or condition described by Subsection (d)(1):

(1) involuntary psychiatric hospitalization in the five years preceding the date of the application;

(2) psychiatric hospitalization in the two years preceding the date of the application;

(3) inpatient or residential substance abuse treatment in the five years preceding the date of the application;

(4) diagnosis in the five years preceding the date of the application by a licensed physician that the person is dependent on alcohol, a controlled substance, or a similar substance; or

(5) diagnosis at any time by a licensed physician that the person suffers or has suffered from a psychiatric disorder or condition consisting of or relating to:

(A) schizophrenia or delusional disorder;

(B) bipolar disorder;

(C) chronic dementia, whether caused by illness, brain defect, or brain injury;

(D) dissociative identity disorder;

(E) intermittent explosive disorder; or

(F) antisocial personality disorder.

(f) Notwithstanding Subsection (d), a person who has previously been diagnosed as suffering from a psychiatric disorder or condition described by Subsection (d) or listed in Subsection (e) is not because of that disorder or condition incapable of exercising sound judgment with respect to the proper use and storage of a handgun if the person provides the department with a certificate from a licensed physician whose primary practice is in the field of psychiatry stating that the psychiatric disorder or condition is in remission and is not reasonably likely to develop at a future time.

(g) An individual's eligibility under this section is not affected by a relationship or lack of relationship between the nature of a criminal charge or conviction and the regulated occupation.

SECTION 10. Section 1702.221, Occupations Code, is amended to read as follows:

Sec. 1702.221. REGISTRATION REQUIRED. (a) An individual must register in accordance with the requirements of this chapter and related administrative rules ~~[with the commission as provided by commission rule]~~ if the individual:

(1) is employed as an alarm systems installer, alarm systems monitor, electronic access control device installer, locksmith, dog trainer, manager or branch office manager, noncommissioned security officer, private investigator, private security consultant, or security salesperson; or

(2) is an owner, officer, partner, or shareholder of a license holder.

(b) Registration under this chapter does not preclude an individual from performing additional duties or services authorized by the individual's employer that are not regulated by this chapter.

SECTION 11. Section 1702.226, Occupations Code, is transferred to Subchapter F, Chapter 1702, Occupations Code, redesignated as Section 1702.1045, and amended to read as follows:

Sec. 1702.1045 ~~[1702.226]~~. PRIVATE SECURITY CONSULTING COMPANY ~~[CONSULTANT]~~. A person ~~[An individual]~~ acts as a private security consulting company ~~[consultant]~~ for purposes of this chapter if the person ~~[individual]~~:

(1) consults, advises, trains, or specifies or recommends products, services, methods, or procedures in the security or loss prevention industry;

(2) provides a service described by Subdivision (1) on an independent basis and without being affiliated with a particular service or product; and

(3) meets the experience requirements established by the board ~~[commission]~~.

SECTION 12. Section 1702.229, Occupations Code, is amended to read as follows:

Sec. 1702.229. QUALIFICATIONS FOR REGISTRATION. (a) An applicant for registration ~~[individual]~~ must meet the qualifications required under Section 1702.113 for a license applicant ~~[be at least 18 years of age to be registered]~~.

(b) In accordance with the requirements of Section 1702.0611, the board ~~[The commission]~~ by rule may adopt additional qualifications for an individual to be registered under this subchapter.

SECTION 13. Section 1702.282, Occupations Code, is amended by amending Subsections (b) and (c) and adding Subsection (e) to read as follows:

(b) Before beginning employment as a commissioned security officer, the applicant must be approved by the board ~~[commission]~~ based on the results of the check under Subsection (a). To continue employment in a capacity regulated under this chapter other than as a commissioned security officer, the applicant

must be approved by the board ~~[commission]~~ based on the results of the check under Subsection (a) not later than the 120th day after the date the applicant begins employment in that capacity.

(c) A license, registration, security officer commission, letter of approval, permit, or certification issued by the board ~~[commission]~~ is conditional on the board's ~~[commission's]~~ receipt of criminal history record information.

(e) On receipt of notice that a check of the applicant's criminal record has uncovered an unresolved and potentially disqualifying arrest that occurred before the 10th anniversary of the date the application is filed, the applicant must provide a letter of reference from the county sheriff, prosecuting attorney, or judge of the county in which the applicant was arrested stating that a record of a disposition related to the arrest does not exist, and to the best of the county sheriff's, prosecuting attorney's, or judge's knowledge the applicant is free of any disqualifying convictions. If the applicant fails to provide either the letter of reference or documentary proof of the final disposition of the arrest, the application is considered incomplete and the applicant may not be issued a license, commission, or certificate of registration under this chapter.

SECTION 14. Section 1702.284, Occupations Code, is amended to read as follows:

Sec. 1702.284. ALARM SYSTEMS RECORDS CONFIDENTIAL. Information contained in alarm systems records maintained by a governmental body that concerns the location of an alarm system, the name of the occupant of an alarm system location, or the type of alarm system used is confidential and may be disclosed only to the board, to the alarm company to which the confidential records relate, ~~[commission]~~ or as otherwise required by state law or court order.

SECTION 15. Sections 1702.323(c) and (d), Occupations Code, are amended to read as follows:

(c) The security department of a private business may not hire or employ an individual to perform a duty described by Section 1702.222 if the individual has been convicted of a crime that would otherwise preclude the individual from being registered under this chapter. Although the security department of a private business that hires or employs an individual as a private security officer to possess a firearm in the course and scope of the individual's duties is required to apply for a security officer commission for the individual under this chapter, the security department of a private business is not required to apply to the board ~~[commission]~~ for any license under this chapter.

(d) This chapter applies to an individual described by Subsection (a) who in the course of employment:

(1) comes into contact with the public;

(2) wears:

(A) a uniform ~~[with any type of badge]~~ commonly associated with security personnel or law enforcement;

(B) any type of badge commonly associated with security personnel or law enforcement; or

(C) a patch or apparel containing the word ~~[with]~~ "security" or a substantially similar word that is intended to or is likely to create the impression that the individual is performing security services ~~[on the patch or apparel]~~; and

(3) performs a duty described by Section 1702.108 or 1702.222.

SECTION 16. Section 1702.324, Occupations Code, as amended by Chapters 518, 728, 1102, and 1155, Acts of the 79th Legislature, Regular Session, 2005, is amended by reenacting and amending Subsection (b) and adding Subsection (c) to read as follows:

(b) This chapter does not apply to:

(1) a manufacturer or a manufacturer's authorized distributor while selling [who sells] equipment intended for resale ~~[and does not perform any other service that requires a license under this chapter]~~;

(2) a person engaged exclusively in the business of obtaining and providing information to:

(A) determine creditworthiness;

(B) collect debts; or

(C) ascertain the reliability of information provided by an applicant for property, life, or disability insurance or an indemnity or surety bond;

(3) a person engaged exclusively in the business of repossessing property that is secured by a mortgage or other security interest;

(4) a person who[~~+~~

~~[(A)]~~ is engaged in the business of psychological testing or other testing and interviewing services, including services to determine attitudes, honesty, intelligence, personality, and skills, for preemployment purposes~~[- and~~

~~[(B) does not perform any other service that requires a license under this chapter]~~;

(5) a person who:

(A) is engaged in obtaining information that is a public record under Chapter 552, Government Code, regardless of whether the person receives compensation;

(B) is not a full-time employee, as defined by Section 61.001, Labor Code, of a person licensed under this chapter; and

(C) does not perform any other act that requires a license under this chapter;

(6) a licensed engineer practicing engineering or directly supervising engineering practice under Chapter 1001, including forensic analysis, burglar alarm system engineering, and necessary data collection;

(7) an employee of a cattle association who inspects livestock brands under the authority granted to the cattle association by the Grain Inspection, Packers and Stockyards Administration of the United States Department of Agriculture;

(8) a landman performing activities in the course and scope of the landman's business;

(9) an attorney while engaged in the practice of law;

(10) a person who obtains a document for use in litigation under an authorization or subpoena issued for a written or oral deposition;

(11) an admitted insurer, insurance adjuster, agent, or insurance broker licensed by the state, performing duties in connection with insurance transacted by that person;

(12) a person who on the person's own property or on property owned or managed by the person's employer:

(A) installs, changes, or repairs a mechanical security device;

(B) repairs an electronic security device; or

(C) cuts or makes a key for a security device;

(13) security personnel, including security contract personnel, working at a commercial nuclear power plant licensed by the United States Nuclear Regulatory Commission;

(14) a person or firm licensed as an accountant or accounting firm under Chapter 901, an owner of an accounting firm, or an employee of an accountant or accounting firm while performing services regulated under Chapter 901; or

(15) a retailer, wholesaler, or other person who sells mechanical security devices, including locks and deadbolts, but who does not:

(A) service mechanical security devices for the public outside of the person's premises; or

(B) claim to act as a locksmith.

(c) The exemptions provided by Subsection (b) apply only to a person described in that subsection while the person is performing services directly related to and dependent on the provision of the exempted service that does not otherwise require licensing under this chapter. The exemptions do not apply to activities or services that are independent of the service or profession that is the basis for the exemption.

SECTION 17. Section 1702.361, Occupations Code, is amended to read as follows:

Sec. 1702.361. DENIAL AND DISCIPLINARY ACTIONS [~~POWERS OF COMMISSION~~]; GROUNDS. (a) Subject to the board's final order under the hearing provisions of this subchapter [~~Except as provided by Section 1702.3615~~], the department [~~commission~~], for conduct described by Subsection (b), may:

(1) deny an application or revoke, suspend, or refuse to renew a license, registration, or security officer commission;

(2) reprimand a license holder, registrant, or commissioned security officer; or

(3) place on probation a person whose license, registration, or security officer commission has been suspended.

(b) The department [~~commission~~] shall take disciplinary action described by Subsection (a) on proof:

(1) that the applicant, license holder, registrant, or commissioned security officer has:

(A) violated this chapter or a [~~commission~~] rule adopted under this chapter;

(B) become ineligible for licensure or registration under Section 1702.113, or a commission under Section 1702.163, if applicable, other than an action for which the department has taken summary action under Section 1702.364 ~~[been convicted of a Class B misdemeanor or equivalent offense if the fifth anniversary of the date of the conviction has occurred];~~

(C) engaged in fraud, deceit, or misrepresentation; ~~or~~

(D) made a material misstatement in an application for or renewal of a license, registration, or commission; or

(E) failed to pay in full an administrative penalty assessed under Subchapter Q, for which the board has issued a final order; or

(2) that the license holder of a registrant or commissioned security officer has submitted to the department ~~[commission]~~ sufficient evidence that the registrant or commissioned security officer:

(A) engaged in fraud or deceit while employed by the license holder; or

(B) committed theft while performing work as a registrant or commissioned security officer.

(c) The department ~~[commission]~~ may place on probation a person whose license is suspended. If a person's suspension of a license is probated, the department ~~[commission]~~ may require the person:

(1) to report regularly to the department ~~[commission]~~ on matters that are the basis of the suspension;

(2) to limit practice to the areas prescribed by the department ~~[commission]~~; or

(3) to continue or review professional education until the person attains a degree of skill satisfactory to the department ~~[commission]~~ in those areas that are the basis of the probation.

SECTION 18. Section 1702.3615, Occupations Code, is amended to read as follows:

Sec. 1702.3615. DIRECT APPEAL IN LIMITED CASES ~~[REVOCATION OR REFUSAL FOR CERTAIN OFFENSES]~~. (a) ~~[Except for an application approved by the commission under Subsection (b), the commission shall revoke or refuse to renew a registration, license, or security officer commission if the applicant, license holder, registrant, or commissioned security officer has been convicted of a:~~

~~[(1) Class A misdemeanor or equivalent offense or a greater offense; or~~

~~[(2) Class B misdemeanor or equivalent offense if the fifth anniversary of the date of conviction has not occurred.~~

~~[(b)]~~ An applicant may appeal directly to the board ~~[commission]~~ the denial of a license, registration, or security officer commission application if:

(1) the sole basis of the denial is the applicant's status as a registered sex offender ~~[a conviction for a Class A misdemeanor or equivalent or a greater offense];~~

(2) the applicant's status as a sex offender is not based on a criminal conviction that would make the applicant ineligible under Section 1702.113 or 1702.163 ~~[20th anniversary of the conviction has occurred]; and~~

(3) the applicant waives the applicant's right to a hearing before the State Office of Administrative Hearings.

(b) ~~[(e)]~~ A proceeding under Subsection (a) ~~[(b)]~~ is governed by Chapter 2001, Government Code. A hearing must be held at a regular meeting of the board ~~[commission]~~.

(c) In a proceeding held as provided by Subsection (a) ~~[(d)]~~ ~~Notwithstanding any other provision of this chapter~~, the board ~~[commission]~~ may approve the application if the board determines the circumstances surrounding the applicant's registration as a sex offender warrant approval based on factors previously established by rule.

SECTION 19. Section 1702.364, Occupations Code, is amended to read as follows:

Sec. 1702.364. SUMMARY ACTIONS ~~[SUSPENSION]~~. (a) On receiving written notice from a ~~[the Texas Department of Public Safety or another]~~ law enforcement agency that a person ~~[an individual]~~ has been ~~[arrested for or]~~ charged with or convicted of an offense that would make the person ineligible for a license, certificate of registration, or security officer commission under Section 1702.113 or 1702.163 ~~[a Class B misdemeanor or equivalent offense or a greater offense]~~, the department shall ~~[commission may]~~:

(1) summarily deny the person's ~~[individual's]~~ application for a license, registration, or security officer commission; ~~[or]~~

(2) in the event of pending charges, summarily suspend the person's ~~[individual's]~~ license, certificate of registration, or security officer commission; or

(3) in the event of a conviction, summarily revoke the person's license, certificate of registration, or security officer commission.

(b) To initiate a proceeding to take action under Subsection (a), the department ~~[commission]~~ must serve notice to the person ~~[individual]~~. The notice must:

(1) inform the person ~~[individual]~~ of the right to a preliminary hearing before the department ~~[commission]~~;

(2) state the basis ~~[alleged violations that constitute grounds]~~ for the summary action ~~[suspension]~~; and

(3) be personally served on the person or the person's authorized representative, ~~[individual]~~ or sent to the person ~~[individual]~~ by certified or registered mail, return receipt requested, to the person's ~~[individual's]~~ mailing address as it appears in the department's ~~[commission's]~~ records.

(c) The action ~~[suspension]~~ is effective at the time notice is served. The ~~[If notice is served in]~~ person~~[, the individual]~~ shall immediately surrender to the department any certificate of ~~[commission the]~~ registration, security officer commission, pocket card, or other form of identification issued by the department ~~[commission. If the notice is served by mail, the individual shall immediately return to the commission the registration, commission, pocket card, or other identification issued by the commission]~~.

(d) At a preliminary hearing, the person ~~[individual]~~ must show cause why~~[pending final hearing on the suspension or denial]~~:

(1) the application should not have been ~~[remain]~~ denied; ~~[or]~~

(2) the registration, license, or security officer commission should not have been ~~[remain]~~ suspended; or

(3) the registration, license, or commission should not have been revoked.

(e) ~~[A final hearing may be scheduled at a time after the final disposition of the charges resulting in the summary suspension or summary denial.]~~

~~[(f)]~~ Chapter 2001, Government Code, does not apply to the department's initial action under this section or to a preliminary hearing ~~[proceeding]~~ before the department ~~[commission]~~ under this section ~~[except for a final administrative hearing].~~

(f) ~~[(g)]~~ The dismissal of a complaint, information, or indictment or an acquittal releases the person ~~[individual]~~ from automatic grounds for a summary denial of an application or summary suspension of a registration or security officer commission under this section. A conviction for the offense giving rise to a summary suspension is automatic grounds for immediate, summary revocation.

(g) The results of the preliminary hearing may be appealed by requesting, in writing, a hearing before an administrative law judge of the State Office of Administrative Hearings. On receipt of the request, the department shall set a hearing and give written notice of the hearing to the person.

(h) The administrative law judge shall make findings of fact and conclusions of law regarding the person's eligibility for a license under this section and promptly issue to the board a proposal for a decision.

(i) At its earliest possible quarterly meeting, the board shall consider the proposal for decision and promptly issue a final order.

(j) An individual's eligibility under this section is not affected by any relationship or lack of relationship between the nature of the criminal charges or conviction and the regulated occupation.

SECTION 20. Section 1702.371, Occupations Code, is amended to read as follows:

Sec. 1702.371. CONVICTION OF CERTAIN CRIMES. For purposes of this chapter ~~[In this subchapter]~~, a person is considered to be convicted of an offense ~~[that is a Class B misdemeanor or greater offense, or an equivalent offense,]~~ if a court enters a judgment against the person for committing an ~~[a Class B misdemeanor or greater offense, or an equivalent]~~ offense~~;~~ under the laws of this state, another state, or the United States, including a conviction:

(1) in which a person is placed on and subsequently discharged from community supervision; ~~[and]~~

(2) that has been set aside or dismissed following the completion of probation; or

(3) for which a person is pardoned, unless the ~~[a full]~~ pardon was ~~[has been]~~ granted for reasons relating to a wrongful conviction.

SECTION 21. Section 1702.381, Occupations Code, is amended to read as follows:

Sec. 1702.381. CIVIL PENALTY. (a) A person who is not licensed under this chapter, who does not have a license application pending, and who violates this chapter may be assessed a civil penalty to be paid to the state not to exceed \$10,000 ~~[\$1,000]~~ for each violation.

(b) A person who contracts with or employs a person who is required to hold a license, certificate of registration, or security officer commission under this chapter knowing that the person does not hold the required license, certificate, or commission or who otherwise, at the time of contract or employment, is in violation of this chapter may be assessed a civil penalty to be paid to the state in an amount not to exceed \$10,000 for each violation.

(c) A ~~[The commission must give a person 30 days' notice of the requirement to obtain a license before the]~~ civil penalty under this section may be assessed against a person on proof that the person has received at least 30 days' notice of the requirements of this section.

SECTION 22. Section 1702.382, Occupations Code, is amended to read as follows:

Sec. 1702.382. INJUNCTION. (a) An attorney for the department, the attorney general's office, or any criminal prosecutor in this state ~~[The commission]~~ may institute an action ~~[in the name of the commission]~~ against a person to enjoin a violation by the person of this chapter or an administrative ~~[a commission]~~ rule.

(b) An injunction action instituted under this section does ~~[The commission is]~~ not require an allegation or proof ~~[required to allege or prove]~~ that an adequate remedy at law does not exist or that substantial or irreparable damage would result from the continued violation to sustain an action under this section. A bond is not required for an injunction action instituted under this section.

SECTION 23. Section 1702.383, Occupations Code, is amended to read as follows:

Sec. 1702.383. ACTION FOR CIVIL PENALTY OR INJUNCTION. If a person has violated a provision of this chapter for which a penalty is imposed under Section 1702.381, an attorney for the department, the attorney general's office, or any criminal prosecutor in this state ~~[the commission]~~ may institute a civil suit in a Travis County district court or in a district court in the county in which the violation occurred for injunctive relief under Section 1702.382 or for assessment and recovery of the civil penalty.

SECTION 24. Section 1702.401, Occupations Code, is amended to read as follows:

Sec. 1702.401. IMPOSITION OF PENALTY. In addition to any other disciplinary action taken by the department, and subject to the board's final order in a hearing under this subchapter ~~[commission]~~, the department ~~[commission]~~ may impose an administrative penalty on a person licensed, commissioned, or registered under this chapter who violates this chapter or a rule or order adopted under this chapter.

SECTION 25. Section 1702.402(a), Occupations Code, is amended to read as follows:

(a) Each day a violation continues or occurs is a separate violation for purposes of imposing a penalty. The amount of each separate violation may not exceed \$500 ~~[\$200]~~.

SECTION 26. Section 1702.403, Occupations Code, is amended to read as follows:

Sec. 1702.403. ~~[REPORT AND]~~ NOTICE OF VIOLATION AND PENALTY. (a) If the department ~~[director]~~ determines that a violation has occurred, the department ~~[director may issue to the commission a report stating:~~

~~[(1) the facts on which the determination is based; and~~

~~[(2) the director's recommendation on the imposition of the penalty, including a recommendation on the amount of the penalty.~~

~~[(b) Not later than the 14th day after the date the report is issued, the director] shall give written notice [of the report] to the person.~~

~~[(c)]~~ The notice must:

(1) include a brief summary of the alleged violation;

(2) state the amount of the recommended penalty; and

(3) inform the person of the person's right to a hearing on the occurrence of the violation, the amount of the penalty, or both.

SECTION 27. Section 1702.404, Occupations Code, is amended to read as follows:

Sec. 1702.404. PENALTY TO BE PAID OR HEARING REQUESTED.

(a) Not later than the 20th day after the date the person receives the notice, the person in writing may:

(1) accept the determination and recommended penalty ~~[of the director]~~; or

(2) make a request for a hearing on the occurrence of the violation, the amount of the penalty, or both.

(b) If the person accepts the determination and recommended penalty, ~~[of the director, the commission by order shall approve]~~ the person shall pay the ~~[determination and impose the recommended]~~ penalty in a timely manner.

(c) The department may initiate suspension proceedings under Section 1702.361 against a person who, before the 21st day after the day the person receives the notice, either:

(1) accepts the penalty but fails to pay; or

(2) fails to respond to the notice.

SECTION 28. Section 1702.405, Occupations Code, is amended to read as follows:

Sec. 1702.405. HEARING. (a) If the person requests a hearing ~~[or fails to respond in a timely manner to the notice]~~, the department ~~[director]~~ shall set a hearing and give written notice of the hearing to the person. An administrative law judge of the State Office of Administrative Hearings shall hold the hearing.

(b) The administrative law judge shall make findings of fact and conclusions of law and promptly issue to the board ~~[commission]~~ a proposal for a decision about the occurrence of the violation and the amount of a proposed penalty.

SECTION 29. Section 1702.406, Occupations Code, is amended to read as follows:

Sec. 1702.406. DECISION BY BOARD [~~COMMISSION~~]. (a) Based on the findings of fact, conclusions of law, and proposal for a decision, the board [~~commission~~] by order may:

- (1) find that a violation occurred and impose a penalty; or
- (2) find that a violation did not occur.

(b) The notice of the board's [~~commission's~~] order given to the person must include a statement of the right of the person to judicial review of the order.

(c) If the person does not file a petition in the appropriate civil court for judicial review of the board's order not later than the 30th day after the date of the order, the board's order is final for purposes of Section 1702.361.

SECTION 30. Sections 1702.2225, 1702.407, 1702.408, 1702.409, 1702.410, 1702.411, and 1702.412, Occupations Code, are repealed.

SECTION 31. The Texas Private Security Board shall adopt the rules and procedures necessary to implement the changes in law made by this Act to Chapter 1702, Occupations Code, not later than December 1, 2007.

SECTION 32. (a) The changes in law made by this Act to Chapter 1702, Occupations Code, apply only to an application for a license, commission, or certificate of registration submitted on or after January 1, 2008.

(b) To the extent of any conflict, this Act prevails over another Act of the 80th Legislature, Regular Session, 2007, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 33. This Act takes effect September 1, 2007.

Representative Driver moved to adopt the conference committee report on **HB 2833**.

A record vote was requested.

The motion to adopt the conference committee report on **HB 2833** prevailed by (Record 2040): 143 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Miles; Miller; Moreno; Morrison; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter;

Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker; Gattis(C).

Absent, Excused — Allen; Chavez.

Absent — Crabb; Merritt; Mowery.

HB 3314 - RULES SUSPENDED

Representative Keffer moved to suspend all necessary rules to consider the conference committee report on **HB 3314**.

A record vote was requested.

The motion prevailed by (Record 2041): 137 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flynn; Frost; Gallego; Garcia; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McReynolds; Menendez; Merritt; Miles; Miller; Moreno; Morrison; Murphy; Naishtat; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker; Gattis(C).

Absent, Excused — Allen; Chavez.

Absent — Deshotel; Flores; Hilderbran; King, S.; McClendon; Mowery; Noriega; Ritter; Turner.

STATEMENT OF VOTE

When Record No. 2041 was taken, my vote failed to register. I would have voted yes.

S. King

HB 3314 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Keffer submitted the following conference committee report on **HB 3314**:

Austin, Texas, May 26, 2007

The Honorable David Dewhurst
President of the Senate

The Honorable Tom Craddick
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 3314** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Duncan
Ogden
Whitmire
Williams
Zaffirini

On the part of the senate

Keffer
Crownover
Peña
Ritter
Bonnen

On the part of the house

HB 3314, A bill to be entitled An Act relating to imposition, administration, collection, and enforcement of state taxes; providing penalties.

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

SECTION 1. Subchapter A, Chapter 111, Tax Code, is amended by adding Section 111.0102 to read as follows:

Sec. 111.0102. SUIT CHALLENGING COLLECTION ACTION. Venue for and jurisdiction of a suit that challenges or is for the purpose of avoiding a comptroller collection action or state tax lien in any manner is exclusively conferred on the district courts of Travis County.

SECTION 2. Section 111.016, Tax Code, is amended by adding Subsections (a-1) and (b-1) to read as follows:

(a-1) A person is presumed to have received or collected a tax or money represented to be a tax for the purpose of this section if the person files, or causes to be filed, a tax return or report with the comptroller showing tax due. A person, including a person who is on the accrual method of accounting, may rebut this presumption by providing satisfactory documentation to the comptroller that the tax on a transaction or series of transactions was not collected. The documentation is subject to verification by the comptroller.

(b-1) Notwithstanding any other provision of this title, if the tax liability of a corporation, association, limited liability company, limited partnership, or other legal entity with which the responsible individual was employed or associated has either not become final, is subject to tolling of limitations under Section 111.207, or is the subject of a federal bankruptcy proceeding, the statute of limitations relating to the period during which the individual may be personally assessed by the comptroller is stayed until the first anniversary of the date the liability becomes final or the date the bankruptcy proceeding is closed or dismissed.

SECTION 3. Section 111.017, Tax Code, is amended to read as follows:

Sec. 111.017. SEIZURE AND SALE OF PROPERTY. (a) Before the expiration of three years after a person becomes delinquent in the payment of any amount under this title, the comptroller may seize and sell at public auction real

and personal property of the person. A seizure made to collect the tax is limited only to property of the person that is not exempt from execution. Service or delivery of a notice of seizure under this section affecting property held by a financial institution in the name of or on behalf of a delinquent who is a customer of the financial institution is governed by Section 59.008, Finance Code.

(b) A person commits an offense if the person obstructs, hinders, impedes, or interferes with the comptroller's seizure of the property of a delinquent taxpayer in the following ways:

(1) trespassing on the property of a business or a business location that has been seized by the comptroller without the permission of the comptroller or the comptroller's agents;

(2) removing or breaking a lock on a business or business location that has been seized by the comptroller without the permission of the comptroller or the comptroller's agents;

(3) removing or causing to be removed any inventory, equipment, or other property from a business or business location seized by the comptroller without the permission of the comptroller or the comptroller's agents;

(4) damaging, destroying, or defacing any inventory, equipment, or property or the business location of a delinquent taxpayer while it is under seizure by the comptroller; or

(5) knowingly obstructing, hindering, or impeding the comptroller or the comptroller's agents in the seizure or securing of a delinquent taxpayer's property, including the taxpayer's business location, inventory, or equipment, under this section.

(c) An offense under Subsection (b) is a Class A misdemeanor.

SECTION 4. Section 111.021, Tax Code, is amended by amending Subsection (d) and adding Subsection (f-1) to read as follows:

(d) On receipt of a notice given under this section, the person receiving the notice:

(1) within 20 days after receiving the notice shall advise the comptroller of each such asset belonging to the delinquent or person to whom an unpaid determination applies that is possessed or controlled by the person receiving the notice and of each debt owed by the person receiving the notice to the delinquent person or person to whom an unpaid determination applies; ~~and~~

(2) may not transfer or dispose of the asset or debt possessed, controlled, or owed by the person at the time the person received the notice for a period of 60 days after receipt of the notice, unless the comptroller consents to an earlier disposal; and

(3) may not avoid or attempt to avoid compliance with this section by filing an interpleader action in court and depositing the delinquent's or person's funds or other assets into the registry of the court.

(f-1) A person who fails or refuses to comply with this section after receiving a notice of freeze or levy is liable for a penalty in an amount equal to 50 percent of the amount sought to be frozen or levied. This penalty is in addition to

the liability imposed under Subsection (f). The penalty may be assessed and collected by the comptroller using any remedy available to collect other amounts under this title.

SECTION 5. Subchapter B, Chapter 111, Tax Code, is amended by adding Section 111.0511 to read as follows:

Sec. 111.0511. RESTRICTED OR CONDITIONAL PAYMENTS TO COMPTROLLER PROHIBITED. (a) In this section, "taxes" includes the tax and any penalties and interest relating to a tax liability.

(b) Unless the restriction or condition is authorized by this title, a restriction or condition placed on a check or other money instrument in payment of taxes by the maker that purports to limit the amount of taxes owed or place a condition on its acceptance or negotiation is void.

SECTION 6. Subchapter B, Chapter 111, Tax Code, is amended by adding Section 111.0611 to read as follows:

Sec. 111.0611. PERSONAL LIABILITY FOR FRAUDULENT TAX EVASION. (a) An officer, manager, or director of a corporation, association, or limited liability company, a partner of a general partnership, or a managing general partner of a limited partnership or limited liability partnership who, as an officer, manager, director, or partner, took an action or participated in a fraudulent scheme or fraudulent plan to evade the payment of taxes due under Title 2 or 3 is personally liable for the taxes and any penalty and interest due. The personal liability of an individual includes liability for the additional 50 percent fraud penalty provided by Section 111.061(b). The comptroller shall assess individuals liable under this section in the same manner as other persons or entities may be assessed under this chapter.

(b) For purposes of this section, actions that may indicate the existence of a fraudulent scheme or a fraudulent plan to evade the payment of taxes include:

(1) filing, or causing to be filed, a fraudulent tax return or report with the comptroller on behalf of the business entity;

(2) intentionally failing to file a tax return, report, or other required document with the comptroller when the business entity is under a legal obligation to file;

(3) filing, or causing to be filed, a tax return or report with the comptroller on behalf of the business entity that contains an intentionally false statement that results in the amount of the tax due exceeding the amount of tax reported by 25 percent or more; and

(4) altering, destroying, or concealing any record, document, or thing, presenting to the comptroller any altered or fraudulent record, document, or thing, or otherwise engaging in fraudulent conduct with the intent to affect the course or outcome of a comptroller audit or investigation, a redetermination hearing, or another proceeding involving the comptroller.

(c) To the extent the comptroller can verify and secure sufficient unencumbered assets of the corporation, association, or partnership to satisfy the liability, an individual's personal liability under Subsection (a) is limited to the amount by which the total tax, penalty, and interest due under this section exceeds those assets.

SECTION 7. Section 113.106, Tax Code, is amended by adding Subsections (e) and (f) to read as follows:

(e) A person must bring suit to determine the validity of a state tax lien not later than the 10th anniversary of the date the lien was filed. If more than one state tax lien has been filed relating to the same tax liability, the 10-year limitation period provided by this subsection is calculated from the date of the filing of the first lien relating to the liability.

(f) A taxpayer is presumed to have received proper notice of the taxpayer's tax liability if the notice is delivered to the taxpayer's last address of record with the comptroller. The taxpayer may rebut the presumption by presenting substantive evidence that demonstrates that notice of the tax liability was not received. If the taxpayer rebuts the presumption of receipt of proper notice with evidence the comptroller considers satisfactory, the period of limitations for filing suit provided by Subsection (e) does not apply.

SECTION 8. Subchapter C, Chapter 152, Tax Code, is amended by adding Section 152.0472 to read as follows:

Sec. 152.0472. DETERMINATION OF WHETHER LOAN IS FACTORED, ASSIGNED, OR TRANSFERRED. (a) A seller is not considered to have factored, assigned, or transferred a loan under Section 152.047(g) if:

(1) a loan through a seller is pledged as security for the sale of bonds:

(A) to a qualified institutional buyer, as that term is defined by 17 C.F.R. Section 230.144A, that is not affiliated to the seller;

(B) to an institutional accredited investor, as that term is defined by 17 C.F.R. Section 230.501(a)(1), (2), (3), or (7), that is not affiliated to the seller;
or

(C) in a public offering;

(2) the right to receive payments and the risk of loss on nonpayment remains with the seller or an affiliated collection entity acting as agent of the seller; and

(3) bondholders receive only interest and principal.

(b) Notwithstanding Subsection (a), the seller may elect to pay all unpaid tax imposed under this chapter on the total consideration. A seller that makes this election is entitled to a credit or reimbursement for the taxes paid under this chapter on the remaining unpaid balance of the contract for which the seller has not received payment or has not otherwise collected the tax due. The seller shall take the tax credit or reimbursement on the seller's seller-finance return. The tax credit or reimbursement does not accrue interest.

SECTION 9. Section 183.053(b), Tax Code, is amended to read as follows:

(b) The total of bonds, certificates of deposit, letters of credit, or other security determined to be sufficient by the comptroller of a permittee subject to the tax imposed by this chapter shall be in an amount that the comptroller determines to be sufficient to protect the fiscal interests of the state. The comptroller may not set the amount of security at less than \$1,000 or more than the greater of \$100,000 or four times the amount of the permittee's average monthly tax liability [~~\$50,000~~].

SECTION 10. (a) Section 151.326(a), Tax Code, is amended to read as follows:

(a) The sale of an article of clothing or footwear designed to be worn on or about the human body is exempted from the taxes imposed by this chapter if:

(1) the sales price of the article is less than \$100; and

(2) the sale takes place during a period beginning at 12:01 a.m. on the third [first] Friday in August and ending at 12 midnight on the following Sunday.

(b) Subchapter H, Chapter 151, Tax Code, is amended by adding Section 151.327 to read as follows:

Sec. 151.327. SCHOOL BACKPACKS BEFORE START OF SCHOOL.

(a) The sale or storage, use, or other consumption of a school backpack is exempted from the taxes imposed by this chapter if the backpack is purchased:

(1) for use by a student in a public or private elementary or secondary school;

(2) during the period described by Section 151.326(a)(2); and

(3) for a sales price of less than \$100.

(b) A retailer is not required to obtain an exemption certificate stating that school backpacks are purchased for use by students in a public or private elementary or secondary school unless the backpacks are purchased in a quantity that indicates that the backpacks are not purchased for use by students in a public or private elementary or secondary school.

SECTION 11. Section 162.104(a), Tax Code, is amended to read as follows:

(a) The tax imposed by this subchapter does not apply to gasoline:

(1) sold to the United States for its exclusive use, provided that the exemption does not apply with respect to fuel sold or delivered to a person operating under a contract with the United States;

(2) sold to a public school district in this state for the district's exclusive use;

(3) sold to a commercial transportation company or a metropolitan rapid transit authority operating under Chapter 451, Transportation Code, that provides public school transportation services to a school district under Section 34.008, Education Code, and that uses the gasoline only to provide those services;

(4) exported by either a licensed supplier or a licensed exporter from this state to any other state, provided that:

(A) for gasoline in a situation described by Subsection (d), the bill of lading indicates the destination state and the supplier collects the destination state tax; or

(B) for gasoline in a situation described by Subsection (e), the bill of lading indicates the destination state, the gasoline is subsequently exported, and the exporter is licensed in the destination state to pay that state's tax and has an exporter's license issued under this subchapter;

(5) moved by truck or railcar between licensed suppliers or licensed permissive suppliers and in which the gasoline removed from the first terminal comes to rest in the second terminal, provided that the removal from the second terminal rack is subject to the tax imposed by this subchapter;

(6) delivered or sold into a storage facility of a licensed aviation fuel dealer from which gasoline will be delivered solely into the fuel supply tanks of aircraft or aircraft servicing equipment, or sold from one licensed aviation fuel dealer to another licensed aviation fuel dealer who will deliver the aviation fuel exclusively into the fuel supply tanks of aircraft or aircraft servicing equipment; or

(7) exported to a foreign country if the bill of lading indicates the foreign destination and the fuel is actually exported to the foreign country.

SECTION 12. Section 162.125(a), Tax Code, is amended to read as follows:

(a) A license holder may take a credit on a return for the period in which the sale occurred if the license holder paid tax on the purchase of gasoline and subsequently resells the gasoline without collecting the tax to:

(1) the United States government for its exclusive use, provided that a credit is not allowed for gasoline used by a person operating under contract with the United States;

(2) a public school district in this state for the district's exclusive use;

(3) an exporter licensed under this subchapter if the seller is a licensed supplier or distributor and the exporter subsequently exports the gasoline to another state;

(4) a licensed aviation fuel dealer if the seller is a licensed distributor; or

(5) a commercial transportation company or a metropolitan rapid transit authority operating under Chapter 451, Transportation Code, that provides public school transportation services to a school district under Section 34.008, Education Code, and that uses the gasoline exclusively to provide those services.

SECTION 13. Subchapter B, Chapter 162, Tax Code, is amended by adding Section 162.1275 to read as follows:

Sec. 162.1275. REFUND FOR CERTAIN METROPOLITAN RAPID TRANSIT AUTHORITIES. (a) Except as otherwise provided by this section, a metropolitan rapid transit authority operating under Chapter 451, Transportation Code, that is a party to a contract governed by Section 34.008, Education Code, is entitled to a refund of taxes paid under this subchapter for gasoline used to provide services under the contract and may file a refund claim with the comptroller for the amount of those taxes.

(b) The refund claim under Subsection (a) must contain information regarding:

(1) vehicle mileage;

(2) hours of service provided;

(3) fuel consumed;

(4) the total number of student passengers per route; and

(5) the total number of non-student passengers per route.

(c) If in any month of a school year the number of non-student passengers is greater than five percent of the total passengers for any single route under a contract governed by Section 34.008, Education Code, the metropolitan rapid transit authority is not entitled to a refund of taxes paid under this subchapter for the route for that month.

(d) A metropolitan rapid transit authority that requests a refund under this section shall maintain all supporting documentation relating to the refund until the sixth anniversary of the date of the request.

SECTION 14. Section 162.204(a), Tax Code, is amended to read as follows:

(a) The tax imposed by this subchapter does not apply to:

(1) diesel fuel sold to the United States for its exclusive use, provided that the exemption does not apply to diesel fuel sold or delivered to a person operating under a contract with the United States;

(2) diesel fuel sold to a public school district in this state for the district's exclusive use;

(3) diesel fuel sold to a commercial transportation company or a metropolitan rapid transit authority operating under Chapter 451, Transportation Code, that provides public school transportation services to a school district under Section 34.008, Education Code, and that uses the diesel fuel only to provide those services;

(4) diesel fuel exported by either a licensed supplier or a licensed exporter from this state to any other state, provided that:

(A) for diesel fuel in a situation described by Subsection (d), the bill of lading indicates the destination state and the supplier collects the destination state tax; or

(B) for diesel fuel in a situation described by Subsection (e), the bill of lading indicates the destination state, the diesel fuel is subsequently exported, and the exporter is licensed in the destination state to pay that state's tax and has an exporter's license issued under this subchapter;

(5) diesel fuel moved by truck or railcar between licensed suppliers or licensed permissive suppliers and in which the diesel fuel removed from the first terminal comes to rest in the second terminal, provided that the removal from the second terminal rack is subject to the tax imposed by this subchapter;

(6) diesel fuel delivered or sold into a storage facility of a licensed aviation fuel dealer from which the diesel fuel will be delivered solely into the fuel supply tanks of aircraft or aircraft servicing equipment, or sold from one licensed aviation fuel dealer to another licensed aviation fuel dealer who will deliver the diesel fuel exclusively into the fuel supply tanks of aircraft or aircraft servicing equipment;

(7) diesel fuel exported to a foreign country if the bill of lading indicates the foreign destination and the fuel is actually exported to the foreign country;

(8) dyed diesel fuel sold or delivered by a supplier to another supplier and dyed diesel fuel sold or delivered by a supplier or distributor into the bulk storage facility of a dyed diesel fuel bonded user or to a purchaser who provides a signed statement as provided by Section 162.206;

(9) the volume of water, fuel ethanol, biodiesel, or mixtures thereof that are blended together with taxable diesel fuel when the finished product sold or used is clearly identified on the retail pump, storage tank, and sales invoice as a combination of diesel fuel and water, fuel ethanol, biodiesel, or mixtures thereof;

(10) dyed diesel fuel sold by a supplier or permissive supplier to a distributor, or by a distributor to another distributor;

(11) dyed diesel fuel delivered by a license holder into the fuel supply tanks of railway engines, motorboats, or refrigeration units or other stationary equipment powered by a separate motor from a separate fuel supply tank;

(12) dyed kerosene when delivered by a supplier, distributor, or importer into a storage facility at a retail business from which all deliveries are exclusively for heating, cooking, lighting, or similar nonhighway use; or

(13) diesel fuel used by a person, other than a political subdivision, who owns, controls, operates, or manages a commercial motor vehicle as defined by Section 548.001, Transportation Code, if the fuel:

(A) is delivered exclusively into the fuel supply tank of the commercial motor vehicle; and

(B) is used exclusively to transport passengers for compensation or hire between points in this state on a fixed route or schedule.

SECTION 15. Section 162.227(a), Tax Code, is amended to read as follows:

(a) A license holder may take a credit on a return for the period in which the sale occurred if the license holder paid tax on the purchase of diesel fuel and subsequently resells the diesel fuel without collecting the tax to:

(1) the United States government for its exclusive use, provided that a credit is not allowed for gasoline used by a person operating under a contract with the United States;

(2) a public school district in this state for the district's exclusive use;

(3) an exporter licensed under this subchapter if the seller is a licensed supplier or distributor and the exporter subsequently exports the diesel fuel to another state;

(4) a licensed aviation fuel dealer if the seller is a licensed distributor;
or

(5) a commercial transportation company or a metropolitan rapid transit authority operating under Chapter 451, Transportation Code, that provides public school transportation services to a school district under Section 34.008, Education Code, and that uses the diesel fuel exclusively to provide those services.

SECTION 16. Subchapter C, Chapter 162, Tax Code, is amended by adding Section 162.2275 to read as follows:

Sec. 162.2275. REFUND FOR CERTAIN METROPOLITAN RAPID TRANSIT AUTHORITIES. (a) Except as otherwise provided by this section, a metropolitan rapid transit authority operating under Chapter 451, Transportation Code, that is a party to a contract governed by Section 34.008, Education Code, is entitled to a refund of taxes paid under this subchapter for diesel fuel used to provide services under the contract and may file a refund claim with the comptroller for the amount of those taxes.

(b) The refund claim under Subsection (a) must contain information regarding:

- (1) vehicle mileage;
- (2) hours of service provided;
- (3) fuel consumed;
- (4) the total number of student passengers per route; and
- (5) the total number of non-student passengers per route.

(c) If in any month of a school year the number of non-student passengers is greater than five percent of the total passengers for any single route under a contract governed by Section 34.008, Education Code, the metropolitan rapid transit authority is not entitled to a refund of taxes paid under this subchapter for the route for that month.

(d) A metropolitan rapid transit authority that requests a refund under this section shall maintain all supporting documentation relating to the refund until the sixth anniversary of the date of the request.

SECTION 17. Section 162.3021(b), Tax Code, is amended to read as follows:

(b) Subject to Section 162.3022, the ~~[The]~~ tax imposed by this subchapter does not apply to the sale of liquefied petroleum gas to a commercial transportation company or a metropolitan rapid transit authority operating under Chapter 451, Transportation Code, that uses the gas exclusively to provide public school transportation services to a school district under Section 34.008, Education Code, or to the use of liquefied petroleum gas by that company for that purpose. A motor vehicle that uses liquefied petroleum gas and that is owned by a commercial transportation company or a metropolitan rapid transit authority operating under Chapter 451, Transportation Code, and used exclusively to provide public school transportation services to a school district under Section 34.008, Education Code, is not required to have a liquefied gas tax decal or a special use liquefied gas tax decal.

SECTION 18. Subchapter D, Chapter 162, Tax Code, is amended by adding Section 162.3022 to read as follows:

Sec. 162.3022. EXCLUSIVE USE FOR CERTAIN METROPOLITAN RAPID TRANSIT AUTHORITIES. (a) This section applies to a metropolitan rapid transit authority operating under Chapter 451, Transportation Code, that is a party to a contract governed by Section 34.008, Education Code, that is not required under Section 162.3021 to have a liquefied gas tax decal or a special use liquefied gas tax decal for liquefied gas used to provide services under the contract.

(b) If in any month of a school year the number of non-student passengers is greater than five percent of the total passengers for any single route under a contract governed by Section 34.008, Education Code, the metropolitan rapid transit authority is liable for the tax under this subchapter in an amount that is prorated for that month.

(c) The metropolitan rapid transit authority shall maintain the following supporting documentation relating to the services provided under the contract until the sixth anniversary of the date of the services provided:

- (1) vehicle mileage;
- (2) hours of service provided;
- (3) fuel consumed;
- (4) the total number of student passengers per route; and
- (5) the total number of non-student passengers per route.

(d) The comptroller may adopt rules to implement this section.

SECTION 19. Section 202.061(b), Tax Code, is amended to read as follows:

(b) The taxpayer responsible for the payment of severance taxes on the production from a marginal well in this state on which enhanced efficiency equipment is installed and used is entitled to a credit in an amount equal to 10 percent of the cost of the equipment, provided that:

(1) the cumulative total of all severance tax credits authorized by this section may not exceed \$1,000 for any marginal well;

(2) the enhanced efficiency equipment installed in a qualifying marginal well must have been purchased and installed not earlier than September 1, 2005, or later than September 1, 2013 ~~2009~~;

(3) the taxpayer must file an application with the comptroller for the credit and must demonstrate to the comptroller that the enhanced efficiency equipment has been purchased and installed in the marginal well within the period prescribed by Subdivision (2);

(4) the number of applications the comptroller may approve each state fiscal year may not exceed a number equal to one percent of the producing marginal wells in this state on September 1 of that state fiscal year, as determined by the comptroller; and

(5) the manufacturer of the enhanced efficiency equipment must obtain an evaluation of the product under Subsection (a).

SECTION 20. The change in law made by this Act does not affect taxes imposed before the effective date of this Act, and the law in effect before the effective date of this Act is continued in effect for purposes of the liability for and collection of those taxes.

SECTION 21. (a) Except as otherwise provided by Subsections (b) and (c) of this section, this Act takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

(b) Sections 11 through 18 of this Act take effect July 1, 2007, 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 effect on that date, those sections take effect October 1, 2007.

(c) Section 19 of this Act takes effect September 1, 2007.

Representative Keffer moved to adopt the conference committee report on **HB 3314**.

A record vote was requested.

The motion to adopt the conference committee report on **HB 3314** prevailed by (Record 2042): 143 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, F.; Burnam; Callegari; Castro; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Moreno; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker; Gattis(C).

Absent, Excused — Allen; Chavez.

Absent — Brown, B.; Garcia; Ritter.

STATEMENT OF VOTE

I was shown voting yes on Record No. 2042. I intended to vote no.

Bolton

HB 3732 - RULES SUSPENDED

Representative Hardcastle moved to suspend all necessary rules to consider **HB 3732**.

A record vote was requested.

The motion prevailed by (Record 2043): 119 Yeas, 21 Nays, 2 Present, not voting.

Yeas — Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Delisi; Driver; Dunnam; Dutton; Eiland; Eissler; Elkins; Farabee; Farias; Flores; Flynn; Frost; Garcia; Geren; Giddings; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Lucio; Macias; Madden; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Orr; Otto; Parker; Patrick; Paxton; Phillips; Pickett; Pierson; Pitts; Puente; Raymond; Riddle; Rodriguez; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Veasey; Villarreal; West; Woolley; Zedler; Zerwas.

Nays — Alonzo; Anchia; Davis, Y.; Dukes; England; Escobar; Farrar; Gonzales; Gonzalez Toureilles; Hernandez; Herrero; Howard, D.; Leibowitz; Mallory Caraway; Moreno; Oliveira; Olivo; Ortiz; Rose; Vaught; Vo.

Present, not voting — Mr. Speaker; Gattis(C).

Absent, Excused — Allen; Chavez.

Absent — Davis, J.; Deshotel; Gallego; Peña; Quintanilla; Ritter.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 2043. I intended to vote no.

Bolton

I was shown voting yes on Record No. 2043. I intended to vote no.

Castro

When Record No. 2043 was taken, my vote failed to register. I would have voted no.

Gallego

I was shown voting yes on Record No. 2043. I intended to vote no.

Hochberg

I was shown voting yes on Record No. 2043. I intended to vote no.

Naishtat

I was shown voting yes on Record No. 2043. I intended to vote no.

Puente

I was shown voting yes on Record No. 2043. I intended to vote no.

Rodriguez

HB 3732 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Hardcastle submitted the following conference committee report on **HB 3732**:

Austin, Texas, May 26, 2007

The Honorable David Dewhurst
President of the Senate

The Honorable Tom Craddick
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 3732** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Averitt
Nichols
Nelson
Shapleigh

Darby
R. Cook
Deshotel
Solomons
Hardcastle

On the part of the senate

On the part of the house

HB 3732, A bill to be entitled An Act relating to the implementation of advanced clean energy projects and other environmentally protective projects in this state.

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

SECTION 1. Chapter 447, Government Code, is amended by adding Section 447.013 to read as follows:

Sec. 447.013. ADVANCED CLEAN ENERGY PROJECT GRANT AND LOAN PROGRAM. (a) In this section:

(1) "Account" means the advanced clean energy project account established under this section.

(2) "Advanced clean energy project" has the meaning assigned by Section 382.003, Health and Safety Code.

(3) "Program" means the advanced clean energy project grant and loan program established under this section.

(b) The advanced clean energy project grant and loan program is established to encourage the development of advanced clean energy projects in an environmentally protective manner. The program is administered by the State Energy Conservation Office.

(c) The advanced clean energy project account is an account in the general revenue fund.

(d) The account consists of:

(1) a sub-account in the account that consists of the proceeds of bonds issued under Subsection (j);

(2) revenues allocated to the account under Section 182.122, Tax Code;

(3) any amount appropriated by the legislature for the account;

(4) gifts, grants, and other donations received for the account; and

(5) interest earned on the investment of money in the account.

(e) Money in the account may be appropriated only to the State Energy Conservation Office to award grants or to make or guarantee loans under this section. The total amount of grants that may be awarded under this section in any state fiscal biennium from revenues described by Subsection (d)(2) may not exceed \$20 million. The total amount of loans that may be made or guaranteed under this section in any state fiscal biennium from revenues described by Subsection (d)(2) may not exceed \$10 million.

(f) Before awarding a grant or making a loan under this section, the State Energy Conservation Office shall enter into a written agreement with the entity to which the grant is to be awarded or the loan is to be made. The agreement may specify that if, as of a date specified by the agreement, the entity has not used the grant or loan for the purposes for which the grant or loan was intended, the entity shall repay the amount of the grant or the amount of the loan and any accrued interest, as applicable, under terms specified by the agreement.

(g) Under the program, the State Energy Conservation Office may award a grant to the managing entity of an advanced clean energy project in an amount not to exceed 50 percent of the total amount invested in the project by private industry sources. The managing entity of the project must provide any information considered necessary by the State Energy Conservation Office to determine whether the entity qualifies for the grant.

(h) Under the program, the State Energy Conservation Office may make or guarantee a loan to the managing entity of an advanced clean energy project in this state. If the loan or guarantee is to be funded by the proceeds of bonds issued under Subsection (j), the project must qualify for the loan or guarantee under Section 49-q, Article III, Texas Constitution.

(i) A recipient of a grant or loan under this section is encouraged to purchase goods and services from small businesses and historically underutilized businesses, as those terms are defined by Section 481.191, Government Code.

(j) The Texas Public Finance Authority shall issue general obligation bonds in accordance with and subject to Chapter 1232, Government Code, for the purposes authorized by Section 49-q, Article III, Texas Constitution.

SECTION 2. Section 382.003, Health and Safety Code, is amended by adding Subdivisions (1-a), (3-a), (7-a), and (11-a) to read as follows:

(1-a) "Advanced clean energy project" means a project for which an application for a permit under this chapter is received by the commission on or after January 1, 2008, and before January 1, 2020, and that:

(A) involves the use of coal, biomass, petroleum coke, solid waste, or fuel cells using hydrogen derived from such fuels, in the generation of electricity, or the creation of liquid fuels outside of the existing fuel production infrastructure while co-generating electricity;

(B) is capable of achieving on an annual basis a 99 percent or greater reduction of sulfur dioxide emissions, a 95 percent or greater reduction of mercury emissions, and an emission rate for nitrogen oxides of 0.05 pounds or less per million British thermal units; and

(C) renders carbon dioxide capable of capture, sequestration, or abatement if any carbon dioxide is produced by the project.

(3-a) "Coal" has the meaning assigned by Section 134.004, Natural Resources Code.

(7-a) "Federally qualified clean coal technology" means a technology or process, including a technology or process applied at the precombustion, combustion, or postcombustion stage, for use at a new or existing facility that will achieve on an annual basis a 97 percent or greater reduction of sulfur dioxide emissions, an emission rate for nitrogen oxides of 0.08 pounds or less per million British thermal units, and significant reductions in mercury emissions associated with the use of coal in the generation of electricity, process steam, or industrial products, including the creation of liquid fuels, hydrogen for fuel cells, and other coproducts. The technology used must comply with applicable federal law regarding mercury emissions and must render carbon dioxide capable of capture, sequestration, or abatement. Federally qualified clean coal technology includes atmospheric or pressurized fluidized bed combustion technology, integrated gasification combined cycle technology, methanation technology, magnetohydrodynamic technology, direct and indirect coal-fired turbines, undiluted high-flame temperature oxygen combustion technology that excludes air, and integrated gasification fuel cells.

(11-a) "Solid waste" has the meaning assigned by Section 361.003.

SECTION 3. Subchapter C, Chapter 382, Health and Safety Code, is amended by adding Sections 382.0566 and 382.0567 to read as follows:

Sec. 382.0566. **ADVANCED CLEAN ENERGY PROJECT PERMITTING PROCEDURE.** (a) As authorized by federal law, not later than nine months after the executive director declares an application for a permit under this chapter for an advanced clean energy project to be administratively complete, the executive director shall complete its technical review of the application.

(b) The commission shall issue a final order issuing or denying the permit not later than nine months after the executive director declares the application technically complete. The commission may extend the deadline set out in this subsection up to three months if it determines that the number of complex pending applications for permits under this chapter will prevent the commission from meeting the deadline imposed by this subsection without creating an extraordinary burden on the resources of the commission.

(c) The permit process authorized by this section is subject to the requirements relating to a contested case hearing under this chapter, Chapter 5, Water Code, or Subchapters C-G, Chapter 2001, Government Code, as applicable.

(d) The commission shall adopt rules to implement this section.

Sec. 382.0567. **PROOF THAT TECHNOLOGY IS COMMERCIALY FEASIBLE NOT REQUIRED; CONSIDERATION OF TECHNOLOGY TO BE ACHIEVABLE FOR CERTAIN PURPOSES PROHIBITED.** (a) An applicant for a permit under this chapter for a project in connection with which advanced clean energy technology, federally qualified clean coal technology, or another technology is proposed to be used is not required to prove, as part of an analysis

of whether the project will use the best available control technology or reduce emissions to the lowest achievable rate, that the technology proposed to be used has been demonstrated to be feasible in a commercial operation.

(b) The commission may not consider any technology or level of emission reduction to be achievable for purposes of a best available control technology analysis or lowest achievable emission rate analysis conducted by the commission under another provision of this chapter solely because the technology is used or the emission reduction is achieved by a facility receiving an incentive as an advanced clean energy project.

SECTION 4. Section 11.31, Tax Code, is amended by adding Subsections (k), (l), and (m) to read as follows:

(k) The Texas Commission on Environmental Quality shall adopt rules establishing a nonexclusive list of facilities, devices, or methods for the control of air, water, or land pollution, which must include:

(1) coal cleaning or refining facilities;
(2) atmospheric or pressurized and bubbling or circulating fluidized bed combustion systems and gasification fluidized bed combustion combined cycle systems;

(3) ultra-supercritical pulverized coal boilers;
(4) flue gas recirculation components;
(5) syngas purification systems and gas-cleanup units;
(6) enhanced heat recovery systems;
(7) exhaust heat recovery boilers;
(8) heat recovery steam generators;
(9) superheaters and evaporators;
(10) enhanced steam turbine systems;
(11) methanation;
(12) coal combustion or gasification byproduct and coproduct handling, storage, or treatment facilities;

(13) biomass cofiring storage, distribution, and firing systems;
(14) coal cleaning or drying processes, such as coal drying/moisture reduction, air jigging, precombustion decarbonization, and coal flow balancing technology;

(15) oxy-fuel combustion technology, amine or chilled ammonia scrubbing, fuel or emission conversion through the use of catalysts, enhanced scrubbing technology, modified combustion technology such as chemical looping, and cryogenic technology;

(16) if the United States Environmental Protection Agency adopts a final rule or regulation regulating carbon dioxide as a pollutant, property that is used, constructed, acquired, or installed wholly or partly to capture carbon dioxide from an anthropogenic source in this state that is geologically sequestered in this state;

(17) fuel cells generating electricity using hydrogen derived from coal, biomass, petroleum coke, or solid waste; and

(18) any other equipment designed to prevent, capture, abate, or monitor nitrogen oxides, volatile organic compounds, particulate matter, mercury, carbon monoxide, or any criteria pollutant.

(l) The Texas Commission on Environmental Quality by rule shall update the list adopted under Subsection (k) at least once every three years. An item may be removed from the list if the commission finds compelling evidence to support the conclusion that the item does not provide pollution control benefits.

(m) Notwithstanding the other provisions of this section, if the facility, device, or method for the control of air, water, or land pollution described in an application for an exemption under this section is a facility, device, or method included on the list adopted under Subsection (k), the executive director of the Texas Commission on Environmental Quality, not later than the 30th day after the date of receipt of the information required by Subsections (c)(2) and (3) and without regard to whether the information required by Subsection (c)(1) has been submitted, shall determine that the facility, device, or method described in the application is used wholly or partly as a facility, device, or method for the control of air, water, or land pollution and shall take the actions that are required by Subsection (d) in the event such a determination is made.

SECTION 5. Section 26.045, Tax Code, is amended to read as follows:

Sec. 26.045. ROLLBACK RELIEF FOR POLLUTION CONTROL REQUIREMENTS. (a) The rollback tax rate for a political subdivision of this state is increased by the rate that, if applied to the total current value, would impose an amount of taxes equal to the amount the political subdivision will spend out of its maintenance and operation funds under Section 26.012(16)[, ~~Tax Code,~~] to pay for a facility, device, or method for the control of air, water, or land pollution that is necessary to meet the requirements of a permit issued by the Texas [~~Natural Resource Conservation~~] Commission on Environmental Quality.

(b) In this section, "facility, device, or method for control of air, water, or land pollution" means any land, structure, building, installation, excavation, machinery, equipment, or device, and any attachment or addition to or reconstruction, replacement, or improvement of that property, that is used, constructed, acquired, or installed wholly or partly to meet or exceed rules or regulations adopted by any environmental protection agency of the United States or this state for the prevention, monitoring, control, or reduction of air, water, or land pollution.

(c) To receive an adjustment to the rollback tax rate under this section, a political subdivision shall present information to the executive director of the Texas [~~Natural Resource Conservation~~] Commission on Environmental Quality in a permit application or in a request for any exemption from a permit that would otherwise be required detailing:

(1) the anticipated environmental benefits from the installation of the facility, device, or method for the control of air, water, or land pollution;

(2) the estimated cost of the pollution control facility, device, or method; and

(3) the purpose of the installation of the facility, device, or method, and the proportion of the installation that is pollution control property.

(d) Following submission of the information required by Subsection (c), the executive director of the Texas ~~[Natural Resource Conservation]~~ Commission on Environmental Quality shall determine whether ~~if~~ the facility, device, or method is used wholly or partly as a facility, device, or method for the control of air, water, or land pollution. If the executive director determines that the facility, device, or method is used wholly or partly to control pollution, the director shall issue a letter to the political subdivision stating that determination and the portion of the cost of the installation that is pollution control property.

(e) The Texas ~~[Natural Resource Conservation]~~ Commission on Environmental Quality may charge a political subdivision seeking a determination that property is pollution control property an additional fee not to exceed its administrative costs for processing the information, making the determination, and issuing the letter required by this section. The commission may adopt rules to implement this section.

(f) The Texas Commission on Environmental Quality shall adopt rules establishing a nonexclusive list of facilities, devices, or methods for the control of air, water, or land pollution, which must include:

(1) coal cleaning or refining facilities;
(2) atmospheric or pressurized and bubbling or circulating fluidized bed combustion systems and gasification fluidized bed combustion combined cycle systems;

(3) ultra-supercritical pulverized coal boilers;
(4) flue gas recirculation components;
(5) syngas purification systems and gas-cleanup units;
(6) enhanced heat recovery systems;
(7) exhaust heat recovery boilers;
(8) heat recovery steam generators;
(9) superheaters and evaporators;
(10) enhanced steam turbine systems;
(11) methanation;
(12) coal combustion or gasification byproduct and coproduct handling, storage, or treatment facilities;

(13) biomass cofiring storage, distribution, and firing systems;
(14) coal cleaning or drying processes such as coal drying/moisture reduction, air jigging, precombustion decarbonization, and coal flow balancing technology;

(15) oxy-fuel combustion technology, amine or chilled ammonia scrubbing, fuel or emission conversion through the use of catalysts, enhanced scrubbing technology, modified combustion technology such as chemical looping, and cryogenic technology;

(16) if the United States Environmental Protection Agency adopts a final rule or regulation regulating carbon dioxide as a pollutant, property that is used, constructed, acquired, or installed wholly or partly to capture carbon dioxide from an anthropogenic source in this state that is geologically sequestered in this state;

(17) fuel cells generating electricity using hydrogen derived from coal, biomass, petroleum coke, or solid waste; and

(18) any other equipment designed to prevent, capture, abate, or monitor nitrogen oxides, volatile organic compounds, particulate matter, mercury, carbon monoxide, or any criteria pollutant.

(g) The Texas Commission on Environmental Quality by rule shall update the list adopted under Subsection (f) at least once every three years. An item may be removed from the list if the commission finds compelling evidence to support the conclusion that the item does not render pollution control benefits.

(h) Notwithstanding the other provisions of this section, if the facility, device, or method for the control of air, water, or land pollution described in a permit application or in a request for any exemption from a permit that would otherwise be required is a facility, device, or method included on the list adopted under Subsection (f), the executive director of the Texas Commission on Environmental Quality, not later than the 30th day after the date of receipt of the information required by Subsections (c)(2) and (3) and without regard to whether the information required by Subsection (c)(1) has been submitted, shall determine that the facility, device, or method described in the permit application or in the request for an exemption from a permit that would otherwise be required is used wholly or partly as a facility, device, or method for the control of air, water, or land pollution and shall take the action that is required by Subsection (d) in the event such a determination is made.

(i) A political subdivision of the state seeking an adjustment in its rollback tax rate under this section shall provide to its tax assessor a copy of the letter issued by the executive director of the Texas ~~Natural Resource Conservation~~ Commission on Environmental Quality under Subsection (d). The tax assessor shall accept the copy of the letter from the executive director as conclusive evidence that the facility, device, or method is used wholly or partly as pollution control property and shall adjust the rollback tax rate for the political subdivision as provided for by Subsection (a).

SECTION 6. Section 182.022, Tax Code, is amended by adding Subsection (c) to read as follows:

(c) Notwithstanding any other provision of this chapter, a tax under this chapter may not be imposed on gross receipts from the sale of electricity generated by an advanced clean energy project, as defined by Section 382.003, Health and Safety Code.

SECTION 7. Section 182.122, Tax Code, is amended to read as follows:

Sec. 182.122. ALLOCATION OF TAX. (a) Revenues collected under this chapter are allocated:

- (1) one-fourth to the foundation school fund; and
- (2) three-fourths to the general revenue fund.

(b) The comptroller shall transfer to the advanced clean energy project account the first \$30 million of the revenues collected under this chapter that are allocated to the general revenue fund under Subsection (a)(2) in any state fiscal biennium.

SECTION 8. Effective September 1, 2020, Section 182.122, Tax Code, is amended to read as follows:

Sec. 182.122. ALLOCATION OF TAX. Revenues collected under this chapter are allocated:

- (1) one-fourth to the foundation school fund; and
- (2) three-fourths to the general revenue fund.

SECTION 9. Subchapter B, Chapter 202, Tax Code, is amended by adding Section 202.0545 to read as follows:

Sec. 202.0545. TAX EXEMPTION FOR ENHANCED RECOVERY PROJECTS USING ANTHROPOGENIC CARBON DIOXIDE. (a) Subject to the limitations provided by this section, until the later of the seventh anniversary of the date that the comptroller first approves an application for a tax rate reduction under this section or the effective date of a final rule adopted by the United States Environmental Protection Agency regulating carbon dioxide as a pollutant, the producer of oil recovered through an enhanced oil recovery project that qualifies under Section 202.054 for the recovered oil tax rate provided by Section 202.052(b) is entitled to an additional 50 percent reduction in that tax rate if in the recovery of the oil the enhanced oil recovery project uses carbon dioxide that:

- (1) is captured from an anthropogenic source in this state;
- (2) would otherwise be released into the atmosphere as industrial emissions;
- (3) is measurable at the source of capture; and
- (4) is sequestered in one or more geological formations in this state following the enhanced oil recovery process.

(b) In the event that a portion of the carbon dioxide used in the enhanced oil recovery project is anthropogenic carbon dioxide that satisfies the criteria of Subsection (a) and a portion of the carbon dioxide used in the project fails to satisfy the criteria of Subsection (a) because it is not anthropogenic, the tax reduction provided by Subsection (a) shall be reduced to reflect the proportion of the carbon dioxide used in the project that satisfies the criteria of Subsection (a).

(c) To qualify for the tax rate reduction under this section, the operator must:

- (1) apply to the comptroller for the reduction and include with the application any information and documentation that the comptroller may require; and

- (2) apply for a certification from:

(A) the Railroad Commission of Texas, if carbon dioxide used in the project is to be sequestered in an oil or natural gas reservoir;

(B) the Texas Commission on Environmental Quality, if carbon dioxide used in the project is to be sequestered in a geological formation other than an oil or natural gas reservoir; or

(C) both the Railroad Commission of Texas and the Texas Commission on Environmental Quality if both Paragraphs (A) and (B) apply.

(d) An agency to which an operator applies for a certification under Subsection (c)(2) may issue the certification only if the agency finds that, based on substantial evidence, there is a reasonable expectation that:

(1) the operator's planned sequestration program will ensure that at least 99 percent of the carbon dioxide sequestered as required by Subsection (a)(4) will remain sequestered for at least 1,000 years; and

(2) the operator's planned sequestration program will include appropriately designed monitoring and verification measures that will be employed for a period sufficient to demonstrate whether the sequestration program is performing as expected.

(e) The tax rate reduction does not apply if the operator's sequestration program or the operator's monitoring and verification measures differ substantially from the planned program described by Subsection (d), and the operator shall refund the difference between the amount of the tax paid under this section and the amount that would have been imposed in the absence of this section.

(f) The comptroller shall approve the application if the operator submits the certification or certifications required by Subsection (c)(2) and if the comptroller determines that the oil is otherwise eligible under this section.

(g) If, before the comptroller approves an application for the tax rate reduction under this section, the tax imposed by this chapter is paid at the rate provided by Section 202.052(a) or (b) on oil that qualifies under this section, the producer or producers of the oil are entitled to a credit against taxes imposed by this chapter in an amount equal to the difference between the tax paid on the oil and the tax due on the oil after the rate reduction under this section is applied. The credit is allowed to each producer according to the producer's proportionate share in the oil. To receive a credit, one or more of the producers of the oil must apply to the comptroller for the credit not later than the first anniversary of the date the oil is produced.

(h) The comptroller, the Railroad Commission of Texas, and the Texas Commission on Environmental Quality may adopt rules and establish procedures to implement and administer this section.

SECTION 10. Section 313.024(b), Tax Code, as effective January 1, 2008, is amended to read as follows:

(b) To be eligible for a limitation on appraised value under this subchapter, the entity must use the property in connection with:

- (1) manufacturing;
- (2) research and development;
- (3) a clean coal project, as defined by Section 5.001, Water Code;
- (4) an advanced clean energy ~~[a gasification]~~ project, as defined by Section 382.003, Health and Safety Code ~~[for a coal and biomass mixture]; or~~
- (5) renewable energy electric generation.

SECTION 11. (a) Not later than September 1, 2012, and September 1, 2016, the Texas Commission on Environmental Quality and the State Energy Conservation Office shall issue a joint report to the legislature providing a status update on the implementation of the advanced clean energy program and an

assessment of whether the emissions profile set out in Section 382.003(1-a)(B), Health and Safety Code, as added by this Act, should be adjusted to increase or decrease elements of the emissions profile.

(b) Factors to be considered in the assessment of the emissions profile shall include:

(1) the technical and economic feasibility of meeting all of the elements of the emissions profile in a commercially viable project, as documented by the United States Department of Energy;

(2) the technical and economic feasibility of projects to meet all of the elements of the emissions profile and still use a diverse range of fuels, including lignite; and

(3) the adequacy of the incentives provided by this Act to continue to attract investment in and federal funding for advanced clean energy projects in this state.

(c) Any adjustments to the emissions profile implemented by the legislature in response to a report required by this section shall not apply to an application deemed administratively complete on or before the date of the report.

SECTION 12. Not later than September 1, 2015, the State Energy Conservation Office shall issue a report to the legislature providing an assessment of whether the advanced clean energy program should be extended due to a continued need for incentives to ensure that a diverse range of affordable fuels, including lignite, can be used in a manner that achieves the lowest emissions profile that is technically and economically feasible.

SECTION 13. The State Energy Conservation Office shall adopt rules to establish the advanced clean energy project grant and loan program under Section 447.013, Government Code, as added by this Act, not later than January 1, 2008. Such rules may allow for the recovery of fees and administrative expenses.

SECTION 14. Not later than January 1, 2008, the Texas Commission on Environmental Quality shall adopt rules required under Section 382.0566, Health and Safety Code, and Section 11.31(k), Tax Code, as added by this Act, and Section 26.045(f), Tax Code, as amended by this Act.

SECTION 15. Section 447.013(j), Government Code, as added by this Act, takes effect only if the constitutional amendment proposed by the 80th Legislature, Regular Session, 2007, authorizing the issuance of general obligation bonds to provide and guarantee loans to encourage clean energy projects is approved by the voters. If that amendment is not approved by the voters, Section 447.013(j), Government Code, as added by this Act, has no effect.

SECTION 16. Except as otherwise provided by this Act, this Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

HB 3732 - POINT OF ORDER

Representative Burnam raised a point of order against further consideration of **HB 3732** under Rule 13, Section 9(a)(1) of the House Rules on the grounds that text of the bill that was not in disagreement between the two houses was changed.

PARLIAMENTARY INQUIRY

REPRESENTATIVE PITTS: What time did we finish last night?

CHAIR (Representative Gattis in the chair): I have no idea.

PITTS: Well, can you ask? Was it after midnight?

CHAIR: Check with the Journal Clerk, they have that.

PITTS: It was after midnight wasn't it, Dan?

CHAIR: I believe so.

PITTS: Okay, and any bills that we took up after midnight last night we would have had to have two-thirds vote?

CHAIR: That's right.

PITTS: To suspend, and we have to have those two-thirds vote today?

CHAIR: Correct.

PITTS: Is that correct?

CHAIR: Correct.

PITTS: So are we about finished with our calendar?

CHAIR: Almost.

PITTS: So we didn't kill any bills by adjourning last night after midnight?

CHAIR: I don't think we did.

PITTS: Pardon me.

CHAIR: I do not believe that we did.

PITTS: You do not believe we did?

CHAIR: Correct.

REMARKS ORDERED PRINTED

Representative Pitts moved to print remarks between the chair and Representative Pitts.

The motion prevailed.

HB 3732 - POINT OF ORDER DISPOSITION

The chair overruled the point of order.

Representative Hardcastle moved to adopt the conference committee report on **HB 3732**.

A record vote was requested.

The motion to adopt the conference committee report on **HB 3732** prevailed by (Record 2044): 112 Yeas, 30 Nays, 2 Present, not voting.

Yeas — Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Castro; Chisum; Christian; Cohen; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Delisi; Deshotel; Driver; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Farabee; Farrar; Flynn; Frost; Garcia; Geren; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Hilderbran; Hill; Homer; Hopson; Howard, C.; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenber; Lucio; Macias; Madden; Martinez Fischer; McCall; McReynolds; Menendez; Merriitt; Miller; Morrison; Mowery; Murphy; Noriega; O'Day; Orr; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Truitt; Turner; Van Arsdale; Veasey; Villarreal; West; Woolley; Zedler; Zerwas.

Nays — Alonzo; Anchia; Bailey; Burnam; Coleman; Davis, Y.; Dukes; Escobar; Farias; Flores; Gallego; Gonzales; Herrero; Hochberg; Hodge; Howard, D.; Leibowitz; Mallory Caraway; Martinez; McClendon; Miles; Naishtat; Oliveira; Olivo; Ortiz; Puente; Rodriguez; Thompson; Vaught; Vo.

Present, not voting — Mr. Speaker; Gattis(C).

Absent, Excused — Allen; Chavez.

Absent — Giddings; Hughes; Moreno; Ritter.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 2044. I intended to vote no.

Dunnam

I was shown voting yes on Record No. 2044. I intended to vote no.

England

INTRODUCTION OF GUESTS

The chair recognized Representative Dutton who introduced the house of representatives food services staff.

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 5).

HB 1801 - RULES SUSPENDED

Representative Zerwas moved to suspend all necessary rules to consider the conference committee report on **HB 1801**.

A record vote was requested.

The motion prevailed by (Record 2045): 140 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Castro; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Moreno; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Riddle; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker; Gattis(C).

Absent, Excused — Allen; Chavez.

Absent — Bolton; Callegari; King, S.; Pierson; Ritter; Thompson.

STATEMENT OF VOTE

When Record No. 2045 was taken, my vote failed to register. I would have voted yes.

S. King

HB 1801 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Zerwas submitted the following conference committee report on **HB 1801**:

Austin, Texas, May 25, 2007

The Honorable David Dewhurst
President of the Senate

The Honorable Tom Craddick
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 1801** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Hegar
Deuell
Nichols

On the part of the senate

Zerwas
Escobar
Peña
Pierson
Vaught

On the part of the house

HB 1801, A bill to be entitled An Act relating to the date by which a prosecuting attorney may appeal certain orders, rulings, or sentences in a criminal case and to the posting of notice for a criminal court docket.

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

SECTION 1. Chapter 17, Code of Criminal Procedure, is amended by adding Article 17.085 to read as follows:

Art. 17.085. NOTICE OF APPEARANCE DATE. The clerk of a court that does not provide online Internet access to that court's criminal case records shall post in a designated public place in the courthouse notice of a criminal court docket setting not less than 48 hours before the docket setting.

SECTION 2. Article 44.01(d), Code of Criminal Procedure, is amended to read as follows:

(d) The prosecuting attorney may not make an appeal under Subsection (a) or (b) of this article later than the 20th ~~15th~~ day after the date on which the order, ruling, or sentence to be appealed is entered by the court.

SECTION 3. The change in law by the addition of Article 17.085, Code of Criminal Procedure, made by this Act applies only to a bond issued on or after the effective date of this Act. A bond issued before the effective date of this Act is governed by the law in effect at the time the bond was issued, and the former law is continued in effect for that purpose.

SECTION 4. The change in law to Article 44.01, Code of Criminal Procedure, made by this Act applies only to the appeal of an order, ruling, or sentence entered on or after the effective date of this Act. An order, ruling, or sentence entered before the effective date of this Act is governed by the law in effect when the order, ruling, or sentence is entered, and the former law is continued in effect for that purpose.

SECTION 5. This Act takes effect September 1, 2007.

Representative Zerwas moved to adopt the conference committee report on **HB 1801**.

A record vote was requested.

The motion to adopt the conference committee report on **HB 1801** prevailed by (Record 2046): 139 Yeas, 0 Nays, 3 Present, not voting.

Yeas — Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Moreno; Morrison; Mowery; Murphy;

Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Strama; Straus; Swinford; Talton; Truitt; Turner; Van Arsdale; Vaught; Veasey; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker; Gattis(C); Thompson.

Absent, Excused — Allen; Chavez.

Absent — Farabee; Homer; Ritter; Solomons; Taylor; Villarreal.

HOUSE NOTIFIED

A committee from the senate was announced at the door of the house and, being admitted, notified the house that the senate has completed its labors and is ready to adjourn sine die.

HCR 294 - ADOPTED

(by Naishtat)

The following privileged resolution was laid before the house:

HCR 294

WHEREAS, **HB 3382** 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 80th Legislature of the State of Texas, That the enrolling clerk of the house of representatives be instructed to correct **HB 3382** in SECTION 1 of the conference committee report, at the end of added Subsection (c), Section 51.970, Education Code, strike "manufacturer, as applicable, shall provide the electronic copy not later than the 15th business day after the date of receipt of the request." and substitute "format of the instructional material. The publisher or manufacturer, as applicable, shall provide the electronic copy not later than the 15th business day after the date of receipt of the request.".

HCR 294 was adopted.

HCR 293 - ADOPTED

(by Guillen)

The following privileged resolution was laid before the house:

HCR 293

WHEREAS, **SB 3** has been adopted by the house of representatives and the senate and is being prepared for enrollment; and

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

RESOLVED by the 80th Legislature of the State of Texas, That the enrolling clerk of the senate be instructed to make the following corrections:

Add the following article and sections, appropriately numbered, to the conference committee report and renumber subsequent articles and sections of the conference committee report accordingly:

ARTICLE ____ . REGULATION OF DEVELOPMENT
BY CERTAIN POLITICAL SUBDIVISIONS

SECTION __.01. Section 212.012, Local Government Code, is amended by amending Subsections (a), (c), (d), (e), (f), (h), and (i) and adding Subsections (j) and (k) to read as follows:

(a) Except as provided by Subsection (c), (d), or (j) ~~Subsection (e)~~, an entity described by Subsection (b) may not serve or connect any land with water, sewer, electricity, gas, or other utility service unless the entity has been presented with or otherwise holds a certificate applicable to the land issued under Section 212.0115.

(c) An entity described by Subsection (b) may serve or connect land with water, sewer, electricity, gas, or other utility service regardless of whether the entity is presented with or otherwise holds a certificate applicable to the land issued under Section 212.0115 if:

(1) the land is covered by a development plat approved under Subchapter B or under an ordinance or rule relating to the development plat;

(2) the land was first served or connected with service by an entity described by Subsection (b)(1), (b)(2), or (b)(3) before September 1, 1987; or

(3) the land was first served or connected with service by an entity described by Subsection (b)(4), (b)(5), or (b)(6) before September 1, 1989; ~~or~~

~~[(4) the municipal authority responsible for approving plats issues a certificate stating that:~~

~~[(A) the land:~~

~~[(i) was sold or conveyed to the person requesting service by any means of conveyance, including a contract for deed or executory contract, before:~~

~~[(a) September 1, 1995, in a county defined under Section 232.022(a)(1); or~~

~~[(b) September 1, 2005, in a county defined under Section 232.022(a)(2);~~

~~[(ii) is located in a subdivision in which the entity has previously provided service;~~

~~[(iii) is located outside the limits of the municipality;~~

~~[(iv) is located in a county to which Subchapter B, Chapter 232, applies; and~~

~~[(v) is the site of construction of a residence, evidenced by at least the existence of a completed foundation, that was begun on or before:~~

~~[(a) May 1, 1997, in a county defined under Section 232.022(a)(1); or~~

~~[(b) September 1, 2005, in a county defined under Section 232.022(a)(2); or~~

~~[(B) the land was not subdivided after September 1, 1995, in a county defined under Section 232.022(a)(1), or September 1, 2005, in a county defined under Section 232.022(a)(2), and:~~

~~[(i) water service is available within 750 feet of the subdivided land; or~~

~~[(ii) water service is available more than 750 feet from the subdivided land and the extension of water service to the land may be feasible, subject to a final determination by the water service provider].~~

(d) In a county to which Subchapter B, Chapter 232, applies, an entity described by Subsection (b) may serve or connect land with water, sewer, electricity, gas, or other utility service that is located in the extraterritorial jurisdiction of a municipality regardless of whether the entity is presented with or otherwise holds a certificate applicable to the land issued under Section 212.0115, if the municipal authority responsible for approving plats issues a certificate stating that:

(1) the subdivided land:

(A) was sold or conveyed by a subdivider or developer by any means of conveyance, including a contract for deed or executory contract, before:

(i) September 1, 1995, in a county defined under Section 232.022(a)(1);

(ii) September 1, 1999, in a county defined under Section 232.022(a)(1) if, on August 31, 1999, the subdivided land was located in the extraterritorial jurisdiction of a municipality as determined by Chapter 42; or

(iii) September 1, 2005, in a county defined under Section 232.022(a)(2);

(B) has not been subdivided after September 1, 1995, September 1, 1999, or September 1, 2005, as applicable under Paragraph (A);

(C) is the site of construction of a residence, evidenced by at least the existence of a completed foundation, that was begun on or before:

(i) May 1, 2003, in a county defined under Section 232.022(a)(1); or

(ii) September 1, 2005, in a county defined under Section 232.022(a)(2); and

(D) has had adequate sewer services installed to service the lot or dwelling;

(2) the subdivided land is a lot of record as defined by Section 232.021(6-a) that is located in a county defined by Section 232.022(a)(1) and has adequate sewer services installed that are fully operable to service the lot or dwelling; or

(3) the land was not subdivided after September 1, 1995, in a county defined under Section 232.022(a)(1), or September 1, 2005, in a county defined under Section 232.022(a)(2), and:

(A) water service is available within 750 feet of the subdivided land; or

(B) water service is available more than 750 feet from the subdivided land and the extension of water service to the land may be feasible, subject to a final determination by the water service provider.

(e) An entity described by Subsection (b) may provide utility service to land described by Subsection (d)(1), (2), or (3) ~~[Subsection (e)(4)(A)]~~ only if the person requesting service:

(1) is not the land's subdivider or developer or the subdivider's or developer's agent; and

(2) provides to the entity a certificate described by Subsection (d) ~~[(e)(4)(A)]~~.

(f) ~~[(e)]~~ A person requesting service may obtain a certificate under Subsection (d)(1), (2), or (3) ~~[Subsection (e)(4)(A)]~~ only if the person is the owner or purchaser of the subdivided land and provides to the municipal authority responsible for approving plats documentation containing ~~[either]:~~

(1) a copy of the means of conveyance or other documents that show that the land was sold or conveyed by a subdivider or developer ~~[to the person requesting service]~~ before September 1, 1995, before September 1, 1999, or before September 1, 2005, as applicable under Subsection (d)~~]; and a notarized affidavit by that person that states that construction of a residence on the land, evidenced by at least the existence of a completed foundation, was begun on or before May 1, 1997, or on or before September 1, 2005, as applicable]; [or]~~

(2) for a certificate issued under Subsection (d)(1), a notarized affidavit by the person requesting service that states that ~~[the property was sold or conveyed to that person before September 1, 1995, or before September 1, 2005, as applicable, and that]~~ construction of a residence on the land, evidenced by at least the existence of a completed foundation, was begun on or before May 1, 2003, in a county defined by Section 232.022(a)(1) or September 1, 2005, in a county defined by Section 232.022(a)(2), and the request for utility connection or service is to connect or serve a residence described by Subsection (d)(1)(C);

(3) a notarized affidavit by the person requesting service that states that the subdivided land has not been further subdivided after September 1, 1995, September 1, 1999, or September 1, 2005, as applicable under Subsection (d); and

(4) evidence that adequate sewer service or facilities have been installed and are fully operable to service the lot or dwelling from an entity described by Subsection (b) or the authorized agent responsible for the licensing or permitting of on-site sewage facilities under Chapter 366, Health and Safety Code. ~~[May 1, 1997, or on or before September 1, 2005, as applicable.~~

~~[(f) A person requesting service may obtain a certificate under Subsection (e)(4)(B) only if the person provides to the municipal authority responsible for approving plats an affidavit that states that the property was not sold or conveyed to that person from a subdivider or the subdivider's agent after September 1, 1995, or after September 1, 2005, as applicable.]~~

(h) This section may not be construed to abrogate any civil or criminal proceeding or prosecution or to waive any penalty against a subdivider or developer for a violation of a state or local law, regardless of the date on which the violation occurred.

(i) In this section:

(1) "Developer" has the meaning assigned by Section 232.021.

(2) "Foundation" means the lowest division of a residence, usually consisting of a masonry slab or a pier and beam structure, that is partly or wholly below the surface of the ground and on which the residential structure rests.

(3) ~~[(2)]~~ "Subdivider" has the meaning assigned by Section 232.021.

(j) Except as provided by Subsection (k), this section does not prohibit a water or sewer utility from providing in a county defined by Section 232.022(a)(1) water or sewer utility connection or service to a residential dwelling that:

(1) is provided water or wastewater facilities under or in conjunction with a federal or state funding program designed to address inadequate water or wastewater facilities in colonias or to residential lots located in a county described by Section 232.022(a)(1);

(2) is an existing dwelling identified as an eligible recipient for funding by the funding agency providing adequate water and wastewater facilities or improvements;

(3) when connected, will comply with the minimum state standards for both water and sewer facilities and as prescribed by the model subdivision rules adopted under Section 16.343, Water Code; and

(4) is located in a project for which the municipality with jurisdiction over the project or the approval of plats within the project area has approved the improvement project by order, resolution, or interlocal agreement under Chapter 791, Government Code.

(k) A utility may not serve any subdivided land with water utility connection or service under Subsection (j) unless the entity receives a determination that adequate sewer services have been installed to service the lot or dwelling from the municipal authority responsible for approving plats, an entity described by Subsection (b), or the authorized agent responsible for the licensing or permitting of on-site sewage facilities pursuant to Chapter 366, Health and Safety Code.

SECTION __.02. Section 232.021, Local Government Code, is amended by amending Subdivision (2) and adding Subdivisions (2-a), (2-b), and (6-a) to read as follows:

(2) "Common promotional plan" means any plan or scheme of operation undertaken by a single subdivider or developer or a group of subdividers or developers acting in concert, either personally or through an agent, to offer for sale or lease lots when the land is:

(A) contiguous or part of the same area of land; or

(B) known, designated, or advertised as a common unit or by a common name.

(2-a) "Develop" means a structural improvement or man-made change to a lot intended for residential use undertaken to improve, enhance, or otherwise make suitable real property for purposes of sale, resale, or lease.

(2-b) "Developer" means a person who owns any interest in real property and directly or indirectly develops real property in the ordinary course of business or as part of a common promotional plan.

(6-a) "Lot of record" means:

(A) a lot, the boundaries of which were established by a plat recorded in the office of the county clerk before September 1, 1989, that has not been subdivided after September 1, 1989; or

(B) a lot, the boundaries of which were established by a metes and bounds description in a deed of conveyance, a contract of sale, or other executory contract to convey real property that has been legally executed and recorded in the office of the county clerk before September 1, 1989, that has not been subdivided after September 1, 1989.

SECTION __.03. Section 232.024(b), Local Government Code, is amended to read as follows:

(b) If any part of a plat applies to land intended for residential housing and any part of that land lies in a floodplain, the commissioners court shall not approve the plat unless:

(1) the subdivision is developed in compliance with the minimum requirements of the National Flood Insurance Program and local regulations or orders adopted under Section 16.315, Water Code; and

(2) the plat evidences a restrictive covenant prohibiting [as required by this subsection. The restrictive covenant shall prohibit] the construction of residential housing in any area of the subdivision that is in a floodplain unless the housing is developed in compliance with the minimum requirements of [qualifies for insurance under] the National Flood Insurance Program and local regulations or orders adopted under Section 16.315, Water Code [Act of 1968 (42 U.S.C. Sections 4001 through 4127)].

SECTION __.04. Section 232.028(b), Local Government Code, is amended to read as follows:

(b) On the commissioners court's own motion or on the written request of a subdivider, an owner or resident of a lot in a subdivision, or an entity that provides a utility service, the commissioners court shall make the following determinations regarding the land in which the entity or commissioners court is interested that is located within the jurisdiction of the county:

(1) whether a plat has been prepared and whether it has been reviewed and approved by the commissioners court;

(2) whether water service facilities have been constructed or installed to service the lot or subdivision under Section 232.023 and are fully operable;

(3) whether sewer service facilities have been constructed or installed to service the lot or subdivision under Section 232.023 and are fully operable, or if septic systems are used, whether the lot is served by a permitted on-site sewage facility or lots in the subdivision can be adequately and legally served by septic systems under Section 232.023; and

(4) whether electrical and gas facilities, if available, have been constructed or installed to service the lot or subdivision under Section 232.023.

SECTION __.05. Section 232.029, Local Government Code, is amended by amending Subsections (b), (c), (d), (e), and (i) and adding Subsections (k) and (l) to read as follows:

(b) Except as provided by Subsection (c) or Section 232.037(c), a utility may not serve or connect any subdivided land with electricity or gas unless the entity receives a determination from the county commissioners court under Sections 232.028(b)(2) and (3) ~~[Section 232.028(b)(2)]~~ that adequate water and sewer services have been installed to service the lot or subdivision.

(c) An electric, gas, water, or sewer service utility may serve or connect subdivided land with water, sewer, electricity, gas, or other utility service regardless of whether the utility receives a certificate issued by the commissioners court under Section 232.028(a) or receives a determination from the commissioners court under Section 232.028(b) if the utility is provided with a certificate issued by the commissioners court that states that:

(1) the subdivided land:

(A) was sold or conveyed by a subdivider or developer ~~[to the person requesting service]~~ by any means of conveyance, including a contract for deed or executory contract:

(i) before September 1, 1995; or

(ii) before September 1, 1999, if the subdivided land on August 31, 1999, was located in the extraterritorial jurisdiction of a municipality as determined by Chapter 42;

(B) has not been subdivided after September 1, 1995, or September 1, 1999, as applicable under Paragraph (A); ~~[is located in a subdivision in which the utility has previously provided service; and]~~

(C) is the site of construction of a residence, evidenced by at least the existence of a completed foundation, that was begun~~±~~

~~[(i) on or before May 1, 1997; or~~

~~[(ii)] on or before May 1, 2003; and~~

(D) has had adequate sewer services installed to service the lot or dwelling;

(2) the subdivided land is a lot of record and has adequate sewer services installed that are fully operable to service the lot or dwelling; ~~[if the subdivided land on August 31, 1999, was located in the extraterritorial jurisdiction of a municipality as determined by Chapter 42]; or~~

(3) ~~[(2)]~~ the land was not subdivided after September 1, 1995, and:

(A) water service is available within 750 feet of the subdivided land; or

(B) water service is available more than 750 feet from the subdivided land and the extension of water service to the land may be feasible, subject to a final determination by the water service provider.

(d) A utility may provide utility service to subdivided land described by Subsection (c)(1), (2), or (3) only if the person requesting service:

(1) is not the land's subdivider or developer or the subdivider's or developer's agent; and

(2) provides to the utility a certificate described by Subsection (c) [~~(e)(1)~~].

(e) A person requesting service may obtain a certificate under Subsection (c)(1), (2), or (3) only if the person is the owner or purchaser of the subdivided land and provides to the commissioners court documentation containing [~~either~~]:

(1) [~~documentation containing~~;

~~[(A)]~~ a copy of the means of conveyance or other documents that show that the land was sold or conveyed by a subdivider or developer before September 1, 1995, or before September 1, 1999, as applicable under Subsection (c);

(2) [~~to the person requesting service~~;

~~[(i) before September 1, 1995; or~~

~~[(ii) before September 1, 1999, if the subdivided land on August 31, 1999, was located in the extraterritorial jurisdiction of a municipality as determined by Chapter 42; and~~

~~[(B)]~~ a notarized affidavit by that person requesting service under Subsection (c)(1) that states that construction of a residence on the land, evidenced by at least the existence of a completed foundation, was begun[~~±~~

~~[(i) on or before May 1, 1997; or~~

~~[(ii) on or before May 1, 2003, and the request for utility connection or service is to connect or serve a residence described by Subsection (c)(1)(C);~~

(3) [~~± if the subdivided land on August 31, 1999, was located in the extraterritorial jurisdiction of a municipality as determined by Chapter 42; or~~

~~[(2)]~~ a notarized affidavit by the person requesting service that states that the subdivided land has not been further subdivided after[~~±~~

~~[(A) the property was sold or conveyed to that person:~~

~~[(i) before] September 1, 1995, [±] or~~

~~[(ii) before] September 1, 1999, as applicable under Subsection (c); and~~

(4) evidence that adequate sewer service or facilities have been installed and are fully operable to service the lot or dwelling from an entity described by Section 232.021(14) or the authorized agent responsible for the licensing or permitting of on-site sewage facilities under Chapter 366, Health and Safety Code [~~if the subdivided land on August 31, 1999, was located in the extraterritorial jurisdiction of a municipality as determined by Chapter 42; and~~

~~[(B) construction of a residence on the land, evidenced by at least the existence of a completed foundation, was begun:~~

~~[(i) on or before May 1, 1997; or~~

~~[(ii) on or before May 1, 2003, if the subdivided land on August 31, 1999, was located in the extraterritorial jurisdiction of a municipality as determined by Chapter 42].~~

(i) The prohibition established by this section shall not prohibit a water, sewer, ~~an~~ electric, or gas utility from providing water, sewer, electric, or gas utility connection or service to a lot ~~being~~ sold, conveyed, or purchased through a contract for deed or executory contract or other device by a subdivider or developer prior to July 1, 1995, or September 1, 1999, if on August 31, 1999, the subdivided land was located in the extraterritorial jurisdiction of a municipality that has adequate sewer services installed that are fully operable to service the lot ~~[which is located within a subdivision where the utility has previously established service]~~ and was subdivided by a plat approved prior to September 1, 1989.

(k) Except as provided by Subsection (l), this section does not prohibit a water or sewer utility from providing water or sewer utility connection or service to a residential dwelling that:

(1) is provided water or wastewater facilities under or in conjunction with a federal or state funding program designed to address inadequate water or wastewater facilities in colonias or to residential lots located in a county described by Section 232.022(a)(1);

(2) is an existing dwelling identified as an eligible recipient for funding by the funding agency providing adequate water and wastewater facilities or improvements;

(3) when connected, will comply with the minimum state standards for both water and sewer facilities and as prescribed by the model subdivision rules adopted under Section 16.343, Water Code; and

(4) is located in a project for which the municipality with jurisdiction over the project or the approval of plats within the project area has approved the improvement project by order, resolution, or interlocal agreement under Chapter 791, Government Code, if applicable.

(l) A utility may not serve any subdivided land with water utility connection or service under Subsection (k) unless the entity receives a determination from the county commissioners court under Section 232.028(b)(3) that adequate sewer services have been installed to service the lot or dwelling.

SECTION __.06. Sections 232.031(a) and (b), Local Government Code, are amended to read as follows:

(a) Except as provided by Subsection (d), a subdivider or developer may not sell or lease land in a subdivision first platted or replatted after July 1, 1995, unless the subdivision plat is approved by the commissioners court in accordance with Section 232.024.

(b) Not later than the 30th day after the date a lot is sold, a subdivider or developer shall record with the county clerk all sales contracts, including the attached disclosure statement required by Section 232.033, leases, and any other documents that convey an interest in the subdivided land.

SECTION __.07. Sections 232.035(a) and (b), Local Government Code, are amended to read as follows:

(a) A subdivider or developer or an agent of a subdivider or developer may not cause, suffer, allow, or permit a lot to be sold in a subdivision if the subdivision has not been platted as required by this subchapter.

(b) Notwithstanding any other remedy at law or equity, a subdivider or developer or an agent of a subdivider or developer may not cause, suffer, allow, or permit any part of a subdivision over which the subdivider or developer or an agent of the subdivider or developer has control, or a right of ingress and egress, to become a public health nuisance as defined by Section 341.011, Health and Safety Code.

SECTION __.08. Section 232.036(a), Local Government Code, is amended to read as follows:

(a) A subdivider or developer commits an offense if the subdivider or developer knowingly fails to file a plat or replat required by this subchapter. An offense under this subsection is a Class A misdemeanor.

SECTION __.09. Section 232.038(a), Local Government Code, is amended to read as follows:

(a) Except as provided by Subsection (b), a person who has purchased or is purchasing a lot after July 1, 1995, in a subdivision for residential purposes that does not have water and sewer services as required by this subchapter and is located in an economically distressed area, as defined by Section 17.921, Water Code, from a subdivider or developer, may bring suit in the district court in which the property is located or in a district court in Travis County to:

(1) declare the sale of the property void and require the subdivider or developer to return the purchase price of the property; and

(2) recover from the subdivider or developer:

(A) the market value of any permanent improvements the person placed on the property;

(B) actual expenses incurred as a direct result of the failure to provide adequate water and sewer facilities;

(C) court costs; and

(D) reasonable attorney's fees.

SECTION __.10. Sections 232.040(a), (b), and (c), Local Government Code, are amended to read as follows:

(a) A subdivision plat must accurately reflect the subdivision as it develops. If there is any change, either by the intentional act of the subdivider or developer or by the forces of nature, including changes in the size or dimension of lots or the direction or condition of the roads, a plat must be revised in accordance with Section 232.041.

(b) Except as provided by Subsection (c), a lot in a subdivision may not be sold if the lot lacks water and sewer services as required by this subchapter unless the lot is platted or replatted as required by this subchapter. A subdivider or developer or agent of a subdivider or developer may not transfer a lot through an executory contract or other similar conveyance to evade the requirements of this subchapter. The prohibition in this subsection includes the sale of a lot:

(1) by a subdivider or developer who regains possession of a lot previously exempt under Subsection (c) through the exercise of a remedy described in Section 5.061, Property Code; or

(2) for which it is shown at a proceeding brought in the district court in which the property is located that the sale of a lot otherwise exempt under Subsection (c) was made for the purpose of evading the requirements of this subchapter.

(c) Subsection (b) does not apply to ~~[(#)]~~ a seller other than a subdivider, developer, or agent of a subdivider or developer ~~[resides on the lot]~~.

SECTION __.11. Section 232.029(f), Local Government Code, is repealed.

HCR 293 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE GEREN: Is the Lucio senate amendment included in this language?

REPRESENTATIVE GUILLEN: No, it is not.

HCR 293 was adopted.

REMARKS ORDERED PRINTED

Representative Geren moved to print remarks between Representative Guillen and Representative Geren.

The motion prevailed.

HB 3438 - MOTION TO SUSPEND RULES

Representative Flores moved to suspend all necessary rules to consider the conference committee report for **HB 3438**.

HB 3438 - POINT OF ORDER

Representative P. King raised a point of order against further consideration of **HB 3438** under Rule 11, Section 2 and Rule 11, Section 3 of the House Rules and Article III, Section 30 of the Texas Constitution on the grounds that the conference committee report changes the original purpose of the bill.

The chair overruled the point of order.

A record vote was requested.

The motion to suspend all necessary rules was lost by (Record 2047): 63 Yeas, 81 Nays, 2 Present, not voting.

Yeas — Alonzo; Anchia; Bailey; Berman; Bolton; Burnam; Callegari; Castro; Coleman; Cook, R.; Corte; Crabb; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Eiland; Escobar; Farabee; Farrar; Flores; Gallego; Garcia; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Harper-Brown; Hartnett; Hochberg; Homer; Howard, D.; King, P.; Laubenberg; Martinez; McClendon; Menendez; Miles; Moreno; Morrison; Noriega; O'Day; Oliveira; Olivo; Ortiz; Peña; Phillips; Pierson; Puente; Riddle; Rodriguez; Rose; Strama; Swinford; Taylor; Thompson; Turner; Veasey; Villarreal; Vo.

Nays — Anderson; Aycock; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Chisum; Christian; Cohen; Cook, B.; Creighton; Crownover; Darby; Davis, J.; Delisi; Driver; Eissler; Elkins; England; Farias; Flynn; Frost; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Heflin; Hernandez; Herrero;

Hilderbran; Hill; Hodge; Hopson; Howard, C.; Hughes; Isett; Jackson; Jones; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Lucio; Macias; Madden; Mallory Caraway; Martinez Fischer; McCall; McReynolds; Merritt; Miller; Mowery; Murphy; Naishtat; Orr; Otto; Parker; Patrick; Paxton; Pickett; Pitts; Quintanilla; Raymond; Ritter; Smith, T.; Smith, W.; Smithee; Solomons; Straus; Talton; Truitt; Van Arsdale; Vaught; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker; Gattis(C).

Absent, Excused — Allen; Chavez.

Absent — Keffer; Leibowitz.

STATEMENT OF VOTE

I was shown voting no on Record No. 2047. I intended to vote yes.

Jones

HB 1919 - VOTE RECONSIDERED

Representative Truitt moved to reconsider the vote by which the motion to suspend all necessary rules to consider the conference committee report on **HB 1919** was lost.

A record vote was requested.

The motion to reconsider prevailed by (Record 2048): 112 Yeas, 26 Nays, 2 Present, not voting.

Yeas — Alonzo; Anchia; Bailey; Bohac; Bolton; Bonnen; Branch; Brown, F.; Burnam; Callegari; Castro; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Creighton; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Dukes; Dunnam; Dutton; Eiland; England; Escobar; Farias; Farrar; Frost; Gallego; Garcia; Giddings; Gonzales; Gonzalez Tourelles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Hopson; Howard, D.; Hughes; Jones; Keffer; King, S.; King, T.; Krusee; Kuempel; Laubenberg; Leibowitz; Lucio; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Miles; Moreno; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Ritter; Rodriguez; Rose; Smith, T.; Smithee; Solomons; Strama; Straus; Swinford; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zerwas.

Nays — Aycock; Berman; Brown, B.; Crabb; Crownover; Driver; Eissler; Elkins; Flynn; Geren; Harless; Harper-Brown; Howard, C.; Isett; Jackson; Kolkhorst; Macias; Merritt; Miller; Parker; Patrick; Paxton; Riddle; Talton; Taylor; Zedler.

Present, not voting — Mr. Speaker; Gattis(C).

Absent, Excused — Allen; Chavez.

Absent — Anderson; Farabee; Flores; Homer; King, P.; Latham; Madden; Smith, W.

STATEMENT OF VOTE

When Record No. 2048 was taken, I was in the house but away from my desk. I would have voted no.

Anderson

HB 1919 - RULES SUSPENDED

Representative T. Smith moved to suspend all necessary rules to consider the conference committee report on **HB 1919**.

A record vote was requested.

The motion prevailed by (Record 2049): 110 Yeas, 28 Nays, 3 Present, not voting.

Yeas — Alonzo; Anchia; Bailey; Bohac; Bolton; Bonnen; Brown, F.; Burnam; Callegari; Castro; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Creighton; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Dukes; Dunnam; Dutton; Eiland; England; Escobar; Farabee; Farias; Farrar; Frost; Gallego; Garcia; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, D.; Hughes; Jones; Keffer; King, P.; King, T.; Krusee; Kuempel; Leibowitz; Lucio; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Miles; Moreno; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Ritter; Rodriguez; Rose; Smith, T.; Smithee; Solomons; Strama; Straus; Swinford; Thompson; Truitt; Vaught; Veasey; Villarreal; Vo; West; Zerwas.

Nays — Anderson; Aycock; Berman; Brown, B.; Crabb; Crownover; Driver; Eissler; Elkins; Flynn; Geren; Harless; Harper-Brown; Howard, C.; Isett; Jackson; Kolkhorst; Laubenberg; Macias; Merritt; Miller; Patrick; Paxton; Riddle; Talton; Van Arsdale; Woolley; Zedler.

Present, not voting — Mr. Speaker; Gattis(C); Madden.

Absent, Excused — Allen; Chavez.

Absent — Branch; Flores; King, S.; Latham; Smith, W.; Taylor; Turner.

STATEMENTS OF VOTE

When Record No. 2049 was taken, I was in the house but away from my desk. I would have voted yes.

Flores

When Record No. 2049 was taken, my vote failed to register. I would have voted no.

S. King

HB 1919 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative T. Smith submitted the following conference committee report on **HB 1919**:

Austin, Texas, May 26, 2007

The Honorable David Dewhurst
President of the Senate

The Honorable Tom Craddick
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 1919** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Van de Putte

Ellis

Lucio

Duncan

On the part of the senate

T. Smith

J. Davis

Farabee

Hancock

On the part of the house

HB 1919, A bill to be entitled An Act relating to health benefit plan coverage for treatment for certain brain injuries and serious mental illnesses.

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

SECTION 1. Section 1352.001, Insurance Code, is amended to read as follows:

Sec. 1352.001. **APPLICABILITY OF CHAPTER.** (a) This chapter applies only to a health benefit plan, including, subject to this chapter, a small employer health benefit plan written under Chapter 1501, that provides benefits for medical or surgical expenses incurred as a result of a health condition, accident, or sickness, including an individual, group, blanket, or franchise insurance policy or insurance agreement, a group hospital service contract, or an individual or group evidence of coverage or similar coverage document that is offered by:

- (1) an insurance company;
- (2) a group hospital service corporation operating under Chapter 842;
- (3) a fraternal benefit society operating under Chapter 885;
- (4) a stipulated premium company operating under Chapter 884;
- (5) a reciprocal exchange operating under Chapter 942;
- (6) a Lloyd's plan operating under Chapter 941;
- (7) a health maintenance organization operating under Chapter 843;
- (8) a multiple employer welfare arrangement that holds a certificate of authority under Chapter 846; or
- (9) an approved nonprofit health corporation that holds a certificate of authority under Chapter 844.

(b) Notwithstanding any provision in Chapter 1575, 1579, or 1601 or any other law, this chapter applies to:

- (1) a basic plan under Chapter 1575;
- (2) a primary care coverage plan under Chapter 1579; and

(3) basic coverage under Chapter 1601.

SECTION 2. Section 1352.003, Insurance Code, is amended to read as follows:

Sec. 1352.003. REQUIRED COVERAGES—HEALTH BENEFIT PLANS OTHER THAN SMALL EMPLOYER HEALTH BENEFIT PLANS ~~[EXCLUSION OF COVERAGE PROHIBITED]~~. (a) A health benefit plan must include ~~[may not exclude]~~ coverage for cognitive rehabilitation therapy, cognitive communication therapy, neurocognitive therapy and rehabilitation, neurobehavioral, neurophysiological, neuropsychological, and ~~[or]~~ psychophysiological testing and ~~[or]~~ treatment, neurofeedback therapy, and remediation required for and related to treatment of an acquired brain injury.

(b) A health benefit plan must include coverage for ~~[or]~~ post-acute transition services, ~~[or]~~ community reintegration services, including outpatient day treatment services, or other post-acute care treatment services necessary as a result of and related to an acquired brain injury.

(c) A health benefit plan may not include, in any lifetime limitation on the number of days of acute care treatment covered under the plan, any post-acute care treatment covered under the plan. Any limitation imposed under the plan on days of post-acute care treatment must be separately stated in the plan.

(d) Except as provided by Subsection (c), a health benefit plan must include the same payment limitations, deductibles, copayments, and coinsurance factors for coverage ~~[(b) Coverage]~~ required under this chapter as ~~[may be subject to deductibles, copayments, coinsurance, or annual or maximum payment limits that are consistent with the deductibles, copayments, coinsurance, or annual or maximum payment limits]~~ applicable to other similar coverage provided under the health benefit plan.

(e) To ensure that appropriate post-acute care treatment is provided, a health benefit plan must include coverage for reasonable expenses related to periodic reevaluation of the care of an individual covered under the plan who:

- (1) has incurred an acquired brain injury;
- (2) has been unresponsive to treatment; and
- (3) becomes responsive to treatment at a later date.

(f) A determination of whether expenses, as described by Subsection (e), are reasonable may include consideration of factors including:

- (1) cost;
- (2) the time that has expired since the previous evaluation;
- (3) any difference in the expertise of the physician or practitioner performing the evaluation;
- (4) changes in technology; and
- (5) advances in medicine.

(g) ~~[(e)]~~ The commissioner shall adopt rules as necessary to implement this chapter ~~[section]~~.

(h) This section does not apply to a small employer health benefit plan.

SECTION 3. Chapter 1352, Insurance Code, is amended by adding Section 1352.0035 to read as follows:

Sec. 1352.0035. REQUIRED COVERAGES—SMALL EMPLOYER HEALTH BENEFIT PLANS. (a) A small employer health benefit plan may not exclude coverage for cognitive rehabilitation therapy, cognitive communication therapy, neurocognitive therapy and rehabilitation, neurobehavioral, neurophysiological, neuropsychological, or psychophysiological testing or treatment, neurofeedback therapy, remediation, post-acute transition services, or community reintegration services necessary as a result of and related to an acquired brain injury.

(b) Coverage required under this section may be subject to deductibles, copayments, coinsurance, or annual or maximum payment limits that are consistent with the deductibles, copayments, coinsurance, or annual or maximum payment limits applicable to other similar coverage provided under the small employer health benefit plan.

(c) The commissioner shall adopt rules as necessary to implement this section.

SECTION 4. Section 1352.004(b), Insurance Code, is amended to read as follows:

(b) The commissioner by rule shall require a health benefit plan issuer to provide adequate training to personnel responsible for preauthorization of coverage or utilization review under the plan. The purpose of the training is to prevent denial of coverage in violation of Section 1352.003 and to avoid confusion of medical benefits with mental health benefits. The commissioner, in consultation with the Texas Traumatic Brain Injury Advisory Council, shall prescribe by rule the basic requirements for the training described by this subsection.

SECTION 5. Chapter 1352, Insurance Code, is amended by adding Sections 1352.005, 1352.006, 1352.007, and 1352.008 to read as follows:

Sec. 1352.005. NOTICE TO INSURED AND ENROLLEES. (a) A health benefit plan issuer subject to this chapter, other than a small employer health benefit plan issuer, must annually notify each insured or enrollee under the plan in writing about the coverages described by Section 1352.003.

(b) The commissioner, in consultation with the Texas Traumatic Brain Injury Advisory Council, shall prescribe by rule the specific contents and wording of the notice required under this section.

(c) The notice required under this section must include:

(1) a description of the benefits listed under Section 1352.003;

(2) a statement that the fact that an acquired brain injury does not result in hospitalization or receipt of a specific treatment or service described by Section 1352.003 for acute care treatment does not affect the right of the insured or enrollee to receive benefits described by Section 1352.003 commensurate with the condition of the insured or enrollee; and

(3) a statement of the fact that benefits described by Section 1352.003 may be provided in a facility listed in Section 1352.007.

Sec. 1352.006. DETERMINATION OF MEDICAL NECESSITY; EXTENSION OF COVERAGE. (a) In this section, "utilization review" has the meaning assigned by Section 4201.002.

(b) Notwithstanding Chapter 4201 or any other law relating to the determination of medical necessity under this code, a health benefit plan shall respond to a person requesting utilization review or appealing for an extension of coverage based on an allegation of medical necessity not later than three business days after the date on which the person makes the request or submits the appeal. The person must make the request or submit the appeal in the manner prescribed by the terms of the plan's health insurance policy or agreement, contract, evidence of coverage, or similar coverage document. To comply with the requirements of this section, the health benefit plan issuer must respond through a direct telephone contact made by a representative of the issuer. This subsection does not apply to a small employer health benefit plan.

Sec. 1352.007. TREATMENT FACILITIES. (a) A health benefit plan may not deny coverage under this chapter based solely on the fact that the treatment or services are provided at a facility other than a hospital. Treatment for an acquired brain injury may be provided under the coverage required by this chapter, as appropriate, at a facility at which appropriate services may be provided, including:

(1) a hospital regulated under Chapter 241, Health and Safety Code, including an acute or post-acute rehabilitation hospital; and

(2) an assisted living facility regulated under Chapter 247, Health and Safety Code.

(b) This section does not apply to a small employer health benefit plan.

Sec. 1352.008. CONSUMER INFORMATION. The commissioner shall prepare information for use by consumers, purchasers of health benefit plan coverage, and self-insurers regarding coverages recommended for acquired brain injuries. The department shall publish information prepared under this section on the department's Internet website.

SECTION 6. The heading to Subchapter A, Chapter 1355, Insurance Code, is amended to read as follows:

**SUBCHAPTER A. GROUP HEALTH BENEFIT PLAN COVERAGE
FOR CERTAIN SERIOUS MENTAL ILLNESSES AND OTHER DISORDERS**

SECTION 7. Section 1355.001, Insurance Code, is amended by amending Subdivision (1) and adding Subdivisions (3) and (4) to read as follows:

(1) "Serious mental illness" means the following psychiatric illnesses as defined by the American Psychiatric Association in the Diagnostic and Statistical Manual (DSM):

- (A) bipolar disorders (hypomanic, manic, depressive, and mixed);
- (B) depression in childhood and adolescence;
- (C) major depressive disorders (single episode or recurrent);
- (D) obsessive-compulsive disorders;
- (E) paranoid and other psychotic disorders;
- (F) ~~pervasive developmental disorders;~~
- ~~[(G)]~~ schizo-affective disorders (bipolar or depressive); and
- (G) ~~[(H)]~~ schizophrenia.

(3) "Autism spectrum disorder" means a neurobiological disorder that includes autism, Asperger's syndrome, or Pervasive Developmental Disorder—Not Otherwise Specified.

(4) "Neurobiological disorder" means an illness of the nervous system caused by genetic, metabolic, or other biological factors.

SECTION 8. Subchapter A, Chapter 1355, Insurance Code, is amended by adding Section 1355.015 to read as follows:

Sec. 1355.015. REQUIRED COVERAGE FOR CERTAIN CHILDREN.

(a) At a minimum, a health benefit plan must provide coverage as provided by this section to an enrollee older than two years of age and younger than six years of age who is diagnosed with autism spectrum disorder. If an enrollee who is being treated for autism spectrum disorder becomes six years of age or older and continues to need treatment, this subsection does not preclude coverage of treatment and services described by Subsection (b).

(b) The health benefit plan must provide coverage under this section to the enrollee for all generally recognized services prescribed in relation to autism spectrum disorder by the enrollee's primary care physician in the treatment plan recommended by that physician. An individual providing treatment prescribed under this subsection must be a health care practitioner:

(1) who is licensed, certified, or registered by an appropriate agency of this state;

(2) whose professional credential is recognized and accepted by an appropriate agency of the United States; or

(3) who is certified as a provider under the TRICARE military health system.

(c) For purposes of Subsection (b), "generally recognized services" may include services such as:

(1) evaluation and assessment services;

(2) applied behavior analysis;

(3) behavior training and behavior management;

(4) speech therapy;

(5) occupational therapy;

(6) physical therapy; or

(7) medications or nutritional supplements used to address symptoms of autism spectrum disorder.

(d) Coverage under Subsection (b) may be subject to annual deductibles, copayments, and coinsurance that are consistent with annual deductibles, copayments, and coinsurance required for other coverage under the health benefit plan.

(e) Notwithstanding any other law, this section does not apply to a standard health benefit plan provided under Chapter 1507.

SECTION 9. This Act applies only to a health benefit plan delivered, issued for delivery, or renewed on or after January 1, 2008. A health benefit plan delivered, issued for delivery, or renewed before January 1, 2008, is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 10. This Act takes effect September 1, 2007.

HB 1919 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE TAYLOR: Thank you, Mr. Smith. Just real quick, we just talked about consumer choice. It's kind of confusing when you read it the way they put the two bills together. Is it your intent that these two mandates be included on the consumer choice plan?

REPRESENTATIVE T. SMITH: It is not my intent. It is my intent that they not be included on consumer choice plans.

REMARKS ORDERED PRINTED

Representative Taylor moved to print remarks between Representative T. Smith and Representative Taylor.

The motion prevailed.

Representative T. Smith moved to adopt the conference committee report on **HB 1919**.

A record vote was requested.

The motion to adopt the conference committee report on **HB 1919** prevailed by (Record 2050): 108 Yeas, 35 Nays, 3 Present, not voting. (The vote was reconsidered later today, and the report was adopted by Record 2051.)

Yeas — Alonzo; Anchia; Bailey; Bohac; Bolton; Bonnen; Branch; Burnam; Callegari; Castro; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Davis, J.; Davis, Y.; Delisi; Deshotel; Dukes; Dunnam; Dutton; Eiland; England; Escobar; Farabee; Farias; Farrar; Frost; Gallego; Garcia; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, D.; Hughes; King, P.; King, T.; Krusee; Kuempel; Latham; Leibowitz; Lucio; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Miles; Moreno; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Ritter; Rodriguez; Rose; Smith, T.; Smithee; Solomons; Strama; Straus; Swinford; Taylor; Thompson; Truitt; Turner; Vaught; Veasey; Villarreal; Vo; West; Zerwas.

Nays — Anderson; Aycock; Berman; Brown, B.; Brown, F.; Crabb; Creighton; Crownover; Darby; Driver; Eissler; Elkins; Flynn; Geren; Harless; Harper-Brown; Howard, C.; Isett; Jackson; Jones; King, S.; Kolkhorst; Laubenberg; Macias; Merritt; Miller; Parker; Patrick; Paxton; Riddle; Smith, W.; Talton; Van Arsdale; Woolley; Zedler.

Present, not voting — Mr. Speaker; Gattis(C); Madden.

Absent, Excused — Allen; Chavez.

Absent — Flores; Keffer.

STATEMENTS OF VOTE

I was shown voting no on Record No. 2050. I intended to vote yes.

Eissler

When Record No. 2050 was taken, I was in the house but away from my desk. I would have voted yes.

Flores

HB 1919 - VOTE RECONSIDERED

Representative Taylor moved to reconsider the vote by which the conference committee report on **HB 1919** was adopted.

The motion to reconsider prevailed.

Representative T. Smith moved to adopt the conference committee report on **HB 1919**.

A record vote was requested.

The motion to adopt the conference committee report on **HB 1919** prevailed by (Record 2051): 105 Yeas, 34 Nays, 3 Present, not voting.

Yeas — Alonzo; Anchia; Bailey; Bohac; Bolton; Bonnen; Branch; Burnam; Callegari; Castro; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Davis, J.; Davis, Y.; Delisi; Deshotel; Dukes; Dunnam; Dutton; Eiland; England; Escobar; Farabee; Farias; Farrar; Frost; Gallego; Garcia; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Homer; Hopson; Howard, D.; Hughes; Keffer; King, P.; King, T.; Krusee; Kuempel; Latham; Leibowitz; Lucio; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Miles; Moreno; Mowery; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Ritter; Rodriguez; Smith, T.; Smithee; Solomons; Strama; Straus; Swinford; Taylor; Thompson; Truitt; Turner; Vaught; Veasey; Villarreal; Vo; West; Zerwas.

Nays — Anderson; Aycock; Berman; Brown, B.; Brown, F.; Crabb; Creighton; Crownover; Darby; Driver; Eissler; Elkins; Flynn; Geren; Harless; Harper-Brown; Howard, C.; Isett; Jones; King, S.; Kolkhorst; Macias; Merritt; Miller; Murphy; Parker; Patrick; Paxton; Riddle; Smith, W.; Talton; Van Arsdale; Woolley; Zedler.

Present, not voting — Mr. Speaker; Gattis(C); Madden.

Absent, Excused — Allen; Chavez.

Absent — Flores; Hodge; Jackson; Laubenberg; Morrison; Rose.

STATEMENTS OF VOTE

When Record No. 2051 was taken, I was in the house but away from my desk. I would have voted yes.

Flores

When Record No. 2051 was taken, I was in the house but away from my desk. I would have voted no.

Jackson

**HR 2993 - ADOPTED
(by Craddick)**

Speaker Craddick moved to suspend all necessary rules to take up and consider at this time **HR 2993**.

The motion prevailed.

The following resolution was laid before the house:

HR 2993, Honoring George E. "Buddy" West for his public service.

HR 2993 was read and was adopted.

On motion of Representative Swinford, the names of all the members of the house were added to **HR 2993** as signers thereof.

HR 2993 - ADDRESS BY REPRESENTATIVE WEST

Members, thank you. I love this house, I love everyone of you. We have our ups and downs, but I'll always know that if I'm in 150 places in this state and I have trouble, or a 149, let me rephrase that, I know where I could go to find some help. If y'all are ever out in Odessa. Thank y'all and we'll see you.

REMARKS ORDERED PRINTED

Representative Y. Davis moved to print remarks by Representative West.

The motion prevailed.

ADDRESS BY REPRESENTATIVE ISETT

Members, if I could have your attention just for a minute, this is kind of important. I talked to Ron Clark this morning, I got a phone call earlier today. Many of y'all came in in 1997 with, now federal judge, Ron Clark. He went in for a headache, said he had pressure behind his eyes, and they did some tests, and found a tumor next to his brain, right behind his eyes. So he's going to MD Anderson, I think tomorrow, to have some more tests. I asked him what we could do for him, he said, "Would you please pray?" So if y'all could keep our former colleague, now Judge Ron Clark, in your prayers, the family would much appreciate it. Thank you.

**HR 2454 - ADOPTED
(by Goolsby)**

Representative Goolsby moved to suspend all necessary rules to take up and consider at this time **HR 2454**.

The motion prevailed.

The following resolution was laid before the house:

HR 2454, Commending House Journal Clerk Julia Bass and the staff of the office of the House Journal Clerk.

HR 2454 was read and was adopted.

HB 3068 - MOTION TO SUSPEND RULES

Representative Guillen moved to suspend all necessary rules to discharge conferees and concur in the senate amendments on **HB 3068**.

HB 3068 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE GALLEG0: Mr. Guillen, your bill as it currently stands contains language that conflicts with **HB 3475**, which was another bill that went through the system with respect to Lake Amistad in Val Verde County and it is your intent that **HB 3475**, the bill that's already passed, control over the language in your current bill, is that correct?

GUILLEN: That's correct.

HB 3068 - POINT OF ORDER

Representative Talton raised a point of order against further consideration of **HB 3068** under Rule 8, Section 3 of the House Rules on the grounds that the senate amendments violate the one subject rule.

The chair overruled the point of order.

REMARKS ORDERED PRINTED

Representative Gallego moved to print remarks between Representative Guillen and Representative Gallego.

The motion prevailed.

A record vote was requested.

The motion suspend all necessary rules to discharge conferees and concur in the senate amendments on **HB 3068** was lost by (Record 2052): 66 Yeas, 73 Nays, 2 Present, not voting.

Yeas — Alonzo; Bailey; Bolton; Burnam; Castro; Chisum; Cohen; Coleman; Corte; Davis, Y.; Delisi; Deshotel; Dukes; Dunnam; Dutton; Escobar; Farabee; Farias; Farrar; Flores; Gallego; Garcia; Giddings; Gonzales; Gonzalez Tourelles; Goolsby; Guillen; Haggerty; Hartnett; Heflin; Hernandez; Herrero; Hill; Hochberg; Hodge; Homer; Howard, D.; Jackson; Keffer; King, T.; Leibowitz; Lucio; Mallory Caraway; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Moreno; Naishtat; Noriega; Oliveira; Olivo; Ortiz; Puente; Raymond; Rodriguez; Rose; Swinford; Thompson; Turner; Vaught; Veasey; Villarreal; Woolley; Zedler.

Nays — Anchia; Anderson; Aycock; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Christian; Cook, R.; Crabb; Creighton; Crownover; Darby; Davis, J.; Eiland; Eissler; Elkins; England; Flynn; Frost; Geren; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hilderbran; Hopson; Howard, C.; Hughes; Issett; Jones; King, S.; Kolkhorst; Krusee;

Kuempel; Laubenberg; Macias; Madden; McCall; McReynolds; Merritt; Miller; Morrison; Mowery; Murphy; O'Day; Orr; Otto; Parker; Patrick; Paxton; Phillips; Pickett; Pierson; Pitts; Quintanilla; Ritter; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Talton; Taylor; Truitt; Vo; West; Zerwas.

Present, not voting — Mr. Speaker; Gattis(C).

Absent, Excused — Allen; Chavez.

Absent — Cook, B.; Driver; King, P.; Latham; Peña; Riddle; Van Arsdale.

STATEMENTS OF VOTE

I was shown voting no on Record No. 2052. I intended to vote yes.

Quintanilla

I was shown voting yes on Record No. 2052. I intended to vote no.

Zedler

HR 2844 - ADOPTED

(by Vaught)

Representative Gallego moved to suspend all necessary rules to take up and consider at this time **HR 2844**.

The motion prevailed.

The following resolution was laid before the house:

HR 2844, In memory of Frederick A. Cannan.

HR 2844 was read and was unanimously adopted by a rising vote.

On motion of Representative Noriega, the names of all the members of the house were added to **HR 2844** as signers thereof.

HR 2885 - ADOPTED

(by Zedler)

Representative Zedler moved to suspend all necessary rules to take up and consider at this time **HR 2885**.

The motion prevailed.

The following resolution was laid before the house:

HR 2885, In memory of U.S. Army Private First Class Joshua Romero of Fort Worth.

HR 2885 was read and was unanimously adopted by a rising vote.

On motion of Representative Flores, the names of all the members of the house were added to **HR 2885** as signers thereof.

HR 2962 - ADOPTED
(by Castro)

Representative Castro moved to suspend all necessary rules to take up and consider at this time **HR 2962**.

The motion prevailed.

The following resolution was laid before the house:

HR 2962, In memory of U.S. Army Staff Sergeant Joe A. Narvaez of San Antonio.

HR 2962 was read and was unanimously adopted by a rising vote.

On motion of Representative Puente, the names of all the members of the house were added to **HR 2962** as signers thereof.

(Speaker in the chair)

SB 482 - RULES SUSPENDED

Representative P. King moved to suspend all necessary rules to consider the conference committee report on **SB 482**.

A record vote was requested.

The motion prevailed by (Record 2053): 105 Yeas, 26 Nays, 2 Present, not voting.

Yeas — Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Branch; Brown, B.; Callegari; Chisum; Christian; Cohen; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Delisi; Dukes; Dutton; Eiland; Eissler; Elkins; England; Farabee; Farrar; Flynn; Frost; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Hilderbran; Hill; Hochberg; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Jackson; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Latham; Laubenberg; Leibowitz; Lucio; Madden; Mallory Caraway; Martinez; McCall; McClendon; Menendez; Miles; Miller; Morrison; Mowery; Murphy; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Riddle; Rose; Smith, W.; Solomons; Strama; Straus; Swinford; Taylor; Truitt; Turner; Van Arsdale; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Nays — Alonzo; Anchia; Brown, F.; Burnam; Castro; Coleman; Davis, Y.; Dunnam; Farias; Gallego; Herrero; Hodge; Jones; Kuempel; Martinez Fischer; McReynolds; Merritt; Naishtat; Oliveira; Olivo; Pierson; Rodriguez; Smithee; Talton; Thompson; Veasey.

Present, not voting — Mr. Speaker(C); Noriega.

Absent, Excused — Allen; Chavez.

Absent — Bonnen; Cook, B.; Deshotel; Driver; Escobar; Flores; Haggerty; Issett; Krusee; Macias; Moreno; O'Day; Ritter; Smith, T.; Vaught.

STATEMENTS OF VOTE

When Record No. 2053 was taken, I was in the house but away from my desk. I would have voted yes.

Flores

When Record No. 2053 was taken, I was temporarily out of the house chamber. I would have voted yes.

T. Smith

SB 482 - MOTION TO ADOPT CONFERENCE COMMITTEE REPORT

Representative P. King submitted the conference committee report on **SB 482**.

SB 482 - POINT OF ORDER

Representative Dunnam raised a point of order against further consideration of **SB 482** under Rule 13, Section 10 of the House Rules on the grounds that the conference committee report was filed less than 24 hours before it was taken up for consideration.

BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER

Notice was given at this time that the speaker had signed bills and resolutions in the presence of the house (see the addendum to the daily journal, Signed by the Speaker, House List No. 52).

**HR 2937 - ADOPTED
(by Puente)**

Representative Puente moved to suspend all necessary rules to take up and consider at this time **HR 2937**.

The motion prevailed.

The following resolution was laid before the house:

HR 2937, Congratulating the leadership of King Ranch on their active role as stewards and conservators of our natural resources.

HR 2937 was adopted.

**HR 2856 - ADOPTED
(by B. Brown)**

Representative B. Brown moved to suspend all necessary rules to take up and consider at this time **HR 2856**.

The motion prevailed.

The following resolution was laid before the house:

HR 2856, In memory of Paul Steven Habelt of Eustace.

HR 2856 was unanimously adopted by a rising vote.

On motion of Representative Pitts, the names of all the members of the house were added to **HR 2856** as signers thereof.

HR 2857 - ADOPTED
(by B. Brown)

Representative B. Brown moved to suspend all necessary rules to take up and consider at this time **HR 2857**.

The motion prevailed.

The following resolution was laid before the house:

HR 2857, In memory of Tony Price Ogburn of Log Cabin.

HR 2857 was read and was unanimously adopted by a rising vote.

On motion of Representative Pitts, the names of all the members of the house were added to **HR 2857** as signers thereof.

SB 482 - (consideration continued)

SB 482 - POINT OF ORDER DISPOSITION

The speaker overruled the point of order, and submitted the following statement:

Mr. Dunnam raised a point of order against further consideration of the conference committee report on **SB 482** on the grounds that the report was not adopted after the point of order on the previous conference committee report on the bill was sustained on May 26. The conference committee report was filed in the house on May 27, 2007, as indicated by the official time stamp of the chief clerk. That filing was subsequent to the time at which the point of order was sustained on the previous report, and the new conference committee report contains the signatures of the appropriate number of members of each house. The presence of the date of May 26, 2007, on the signature sheet does not appear to be an official time-stamp date. Moreover, the House Rules do not expressly require a date other than the official time-stamped date to appear on the conference committee report. Accordingly, the point of order is respectfully overruled.

SB 482 - POINT OF ORDER

Representative Dunnam raised a point of order against further consideration of **SB 482** under Rule 13, Section 13 of the House Rules on the grounds that the conference committee report was neither recommitted nor was a new conference committee appointed.

(Speaker pro tempore in the chair)

HCR 278 - ADOPTED
(by Pierson and S. King)

Representative Pierson moved to suspend all necessary rules to take up and consider at this time **HCR 278**.

The motion prevailed.

The following resolution was laid before the house:

HCR 278, In memory of Sam Waldrop of Abilene.

HCR 278 was read and was unanimously adopted by a rising vote.

HR 2900 - ADOPTED

(by Martinez Fischer)

Representative Martinez Fischer moved to suspend all necessary rules to take up and consider at this time **HR 2900**.

The motion prevailed.

The following resolution was laid before the house:

HR 2900, In memory of Roy A. Huerta, Sr., of San Antonio.

HR 2900 was read and was unanimously adopted by a rising vote.

HR 2620 - MOTION TO ADD NAMES

On motion of Representative Gallego, the names of all the members of the house were added to **HR 2620** as signers thereof.

HR 1959 - MOTION TO ADD NAMES

On motion of Representative Bolton, the names of all the members of the house were added to **HR 1959** as signers thereof.

HR 105 - ADOPTED

(by Gallego)

Representative Gallego moved to suspend all necessary rules to take up and consider at this time **HR 105**.

The motion prevailed.

The following resolution was laid before the house:

HR 105, In memory of William David Slaughter, Jr.

HR 105 was read and was unanimously adopted by a rising vote.

On motion of Representative Gallego, the names of all the members of the house were added to **HR 105** as signers thereof.

(Bailey in the chair)

SB 482 - (consideration continued)

SB 482 - POINT OF ORDER DISPOSITION

The chair sustained the point of order, and had read the following statement:

Mr. Dunnam raised a point of order against further consideration of the conference committee report on **SB 482** on the grounds that following the sustaining of the point of order on the previous conference committee report on the bill, the conference committee adopted a new conference committee report, which was filed in the House on May 27, 2007, as indicated by the official time stamp of the chief clerk. When the point was sustained, the bill was still before the house and no motion to re-refer the bill to conference committee was made.

Accordingly, the conference committee was without authority to adopt and file a new conference committee report. For that reason, the point of order is sustained.

(Gattis in the chair)

SB 482 - APPEAL OF POINT OF ORDER

Pursuant to Rule 1, Section 9 of the House Rules, an appeal was made to the chair's ruling in the above point of order. The question on whether the chair's ruling should be sustained was before the house.

The appeal was withdrawn.

HB 624 - RULES SUSPENDED

Representative P. King moved to suspend all necessary rules to discharge conferees and concur in the senate amendments to **HB 624**.

The motion prevailed.

HB 624 - HOUSE DISCHARGES CONFEREES HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative P. King called up with senate amendments for consideration at this time,

HB 624, A bill to be entitled An Act relating to the securitization of the nonbypassable delivery rates of transmission and distribution utilities.

Representative P. King moved to discharge the conferees and concur in the senate amendments to **HB 624**.

(Bailey in the chair)

A record vote was requested.

The motion prevailed by (Record 2054): 144 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alonzo; Anchia; Anderson; Aycock; Bailey(C); Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Moreno; Morrison; Mowery; Murphy; Naishtat; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter;

Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker; Noriega.

Absent, Excused — Allen; Chavez.

Absent — Driver; Hodge.

Senate Committee Substitute

CSHB 624, A bill to be entitled An Act relating to the securitization of the nonbypassable delivery rates of transmission and distribution utilities.

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

SECTION 1. Section 39.262, Utilities Code, is amended by amending Subsection (c) and adding Subsections (l), (m), (n), and (o) to read as follows:

(c) After January 10, 2004, at a schedule and under procedures to be determined by the commission, each transmission and distribution utility, its affiliated retail electric provider, and its affiliated power generation company shall jointly file to finalize stranded costs under Subsections (h) and (i) and reconcile those costs with the estimated stranded costs used to develop the competition transition charge in the proceeding held under Section 39.201. Any resulting difference shall be applied to the nonbypassable delivery rates of the transmission and distribution utility, except that at the utility's option, any or all of the amounts recovered under this section [remaining stranded costs] may be securitized under Subchapter G.

(l) To protect retail customers in this state, and ensure the appropriateness of the nonbypassable rates of electric utilities and transmission and distribution utilities, notwithstanding any other provision of this title, an electric utility or transmission and distribution utility must report to and obtain approval of the commission before closing any transaction in which:

(1) the electric utility or transmission and distribution utility will be merged or consolidated with another electric utility or transmission and distribution utility;

(2) at least 50 percent of the stock of the electric utility or transmission and distribution utility will be transferred or sold; or

(3) a controlling interest or operational control of the electric utility or transmission and distribution utility will be transferred.

(m) The commission shall approve a transaction under Subsection (l) if the commission finds that the transaction is in the public interest. In making its determination, the commission shall consider whether the transaction will adversely affect the reliability of service, availability of service, or cost of service of the electric utility or transmission and distribution utility. The commission shall make the determination concerning a transaction under this subsection not later than the 180th day after the date the commission receives the relevant report. If the commission has not made a determination before the 181st day after that date, the transaction is considered approved.

(n) Subsections (l) and (m) do not apply to a transaction described by Subsection (l) for which a definitive agreement was executed before April 1, 2007, if an electric utility or transmission and distribution utility or a person seeking to acquire or merge with an electric utility or transmission and distribution utility made a filing for review of the transaction under Section 14.101 before May 1, 2007, and the resulting proceeding was not withdrawn.

(o) If an electric utility or transmission and distribution utility or a person seeking to acquire or merge with an electric utility or transmission and distribution utility files with the commission a stipulation, representation, or commitment in advance of or as part of a filing under subsection (l) or under Section 14.101, the commission may enforce the stipulation, representation, or commitment to the extent that the stipulation, representation, or commitment is consistent with the standards provided by this section and Section 14.101. The commission may reasonably interpret and enforce conditions adopted under this section.

SECTION 2. Section 39.301, Utilities Code, is amended to read as follows:

Sec. 39.301. PURPOSE. The purpose of this subchapter is to enable utilities to use securitization financing to recover regulatory assets, all other amounts determined under Section 39.262, and any amounts being recovered under a competition transition charge determined as a result of the proceedings under Sections 39.201 and 39.262. This ~~[and stranded costs, because this]~~ type of debt will lower the carrying costs of the assets relative to the costs that would be incurred using conventional utility financing methods. The proceeds of the transition bonds shall be used solely for the purposes of reducing the amount of recoverable regulatory assets and other amounts ~~[stranded costs]~~, as determined by the commission in accordance with this chapter, through the refinancing or retirement of utility debt or equity. The commission shall ensure that securitization provides tangible and quantifiable benefits to ratepayers, greater than would have been achieved absent the issuance of transition bonds. The commission shall ensure that the structuring and pricing of the transition bonds result in the lowest transition bond charges consistent with market conditions and the terms of the financing order. The amount securitized may not exceed the present value of the revenue requirement over the life of the proposed transition bond associated with the regulatory assets or other amounts ~~[stranded costs]~~ sought to be securitized. The present value calculation shall use a discount rate equal to the proposed interest rate on the transition bonds.

SECTION 3. Section 39.302(4), Utilities Code, is amended to read as follows:

(4) "Qualified costs" means 100 percent of an electric utility's regulatory assets and 75 percent of its recoverable costs determined by the commission under Section 39.201 and any remaining amounts ~~[stranded costs]~~ determined under Section 39.262 together with the costs of issuing, supporting, and servicing transition bonds and any costs of retiring and refunding the electric utility's existing debt and equity securities in connection with the issuance of

transition bonds. The term includes the costs to the commission of acquiring professional services for the purpose of evaluating proposed transactions under Section 39.201 and this subchapter.

SECTION 4. Sections 39.303(a) and (b), Utilities Code, are amended to read as follows:

(a) The commission shall adopt a financing order, on application of a utility to recover the utility's regulatory assets and other amounts determined [~~eligible stranded costs~~] under Section 39.201 or 39.262, on making a finding that the total amount of revenues to be collected under the financing order is less than the revenue requirement that would be recovered over the remaining life of the regulatory assets or other amounts [~~stranded costs~~] using conventional financing methods and that the financing order is consistent with the standards in Section 39.301.

(b) The financing order shall detail the amount of regulatory assets and other amounts [~~stranded costs~~] to be recovered and the period over which the nonbypassable transition charges shall be recovered, which period may not exceed 15 years. If an amount determined under Section 39.262 is subject to judicial review at the time of the securitization proceeding, the financing order shall include an adjustment mechanism requiring the utility to adjust its rates, other than transition charges, or provide credits, other than credits to transition charges, in a manner that would refund over the remaining life of the transition bonds any overpayments resulting from securitization of amounts in excess of the amount resulting from a final determination after completion of all appellate reviews. The adjustment mechanism may not affect the stream of revenue available to service the transition bonds. An adjustment may not be made under this subsection until all appellate reviews, including, if applicable, appellate reviews following a commission decision on remand of its original orders, have been completed.

SECTION 5. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect August 27, 2007.

(Speaker in the chair)

RESOLUTIONS ADOPTED

Representative McClendon moved to suspend all necessary rules in order to take up and consider at this time **HCR 277, HR 2795, HR 2877, HR 2902, HR 2939, HR 2953, HR 2956, HR 2976, HR 2984, HR 2989, and HR 2990.**

The motion prevailed.

The following memorial resolutions were laid before the house:

HCR 277 (by Dunnam), In memory of Dr. Herbert H. Reynolds of Waco.

HR 2795 (by Woolley), In memory of Helen Trahan Sharpe.

HR 2877 (by Geren), In memory of Dr. Gladys Hayes Crates.

HR 2902 (by Noriega), In memory of M. Sara Garza of Houston.

HR 2939 (by Martinez), In memory of Melody Michelle Swinnea of Weslaco.

HR 2953 (by Geren), In memory of Dorman Wayne Tidwell of Fort Worth.

HR 2956 (by Kolkhorst), In memory of William Prentice Mearns of Brenham.

HR 2976 (by Frost), In memory of Dr. Paul Atkinson of New Boston.

HR 2984 (by W. Smith), In memory of Alma Loucille Smartt Lawler of La Porte.

HR 2989 (by Gattis), In memory of James Lowell Shield II of Georgetown.

HR 2990 (by Gallego), In memory of Lilly Moore Davis.

The memorial resolutions were unanimously adopted by a rising vote.

RESOLUTIONS ADOPTED

Representative McClendon moved to suspend all necessary rules in order to take up and consider at this time **HCR 287, HCR 289, HR 361, HR 362, HR 2450, HR 2525, HR 2781, HR 2782, HR 2787 - HR 2789, HR 2791, HR 2792, HR 2794, HR 2796, HR 2798, HR 2800, HR 2804, HR 2806, HR 2815 - HR 2841, HR 2845, HR 2846, HR 2850, HR 2852, HR 2855, HR 2864, HR 2870, HR 2873 - HR 2875, HR 2882 - HR 2884, HR 8886, HR 2888, HR 2895 - HR 2899, HR 2901, HR 2906 - HR 2908, HR 2910, HR 2911, HR 2914, HR 2916 - HR 2920, HR 2922 - HR 2936, HR 2938, HR 2940 - HR 2947, HR 2949, HR 2954, HR 2955, HR 2957 - HR 2961, HR 2964 - HR 2975, HR 2977 - HR 2983, HR 2985 - HR 2988, HR 2991, HR 2992, HR 2994, SCR 46, and SCR 88.**

The motion prevailed.

The following congratulatory resolutions were laid before the house:

HCR 287 (by Keffer), Requesting the General Land Office to study acceptable appraisal methodology relating to the sale of residential and commercial leased property held by special districts of the state.

HCR 289 (by Giddings), Designating the Lancaster Visitors Center as an auxiliary Texas museum.

HR 361 (by Morrison), In honor of the 140th anniversary of Nazareth Academy of Victoria.

HR 362 (by Morrison), Congratulating Sacred Heart Catholic School in Hallettsville on the 125th anniversary of its founding.

HR 2450 (by Goolsby), Honoring the members of the Chief Clerk's Office of the House of Representatives of the 80th Texas Legislature.

HR 2525 (by Harper-Brown), Honoring Assistant Chief Travis Hall of the Irving Police Department on his retirement.

HR 2781 (by Rodriguez), Congratulating Adela Garcia of Austin on her achievements as a professional fitness competitor.

HR 2782 (by Martinez), Recognizing the Rio Grande Valley Partnership for its record of achievements.

HR 2787 (by Peña), Commending Gina Chung for her service as committee clerk with the House Committee on Criminal Jurisprudence and Chairman Aaron Pena.

HR 2788 (by Peña), Commending Taylor Fitzgerald on her service as a legislative intern with the House Committee on Criminal Jurisprudence and Chairman Aaron Pena.

HR 2789 (by Peña), Commending Lauren Elizabeth Owens on her service as an intern with the House Committee on Criminal Jurisprudence.

HR 2791 (by W. Smith), Congratulating the Lee College tennis team on winning the 2007 NJCAA Division I national championship.

HR 2792 (by W. Smith), Congratulating John Matthews of Baytown's Sterling High School on winning the 5A state championship in the 300-meter hurdles.

HR 2794 (by Quintanilla), Honoring Christine Saenz on her retirement from the Socorro Independent School District.

HR 2796 (by Dutton), Honoring Patricia Collins of Houston on her 65th birthday.

HR 2798 (by Gonzalez Toureilles), Honoring Heather Ragsdale for her participation in the Texas Legislative Internship Program.

HR 2800 (by S. King), Commending Charles and Betty Nelson for organizing and sponsoring a production of Handel's Messiah at Abilene Christian University.

HR 2804 (by Vaught), Congratulating Danny Lee and Betty Jean Vaught of Boonesville on their 56th wedding anniversary.

HR 2806 (by Chisum), Honoring Carolyn Scogin Beynon of Austin for her service to the State of Texas.

HR 2815 (by Escobar), Recognizing the 2007 Texas Hispanic Genealogy Conference in Austin.

HR 2816 (by Escobar), Congratulating Master Sergeant Wesley Dean Waggoner on his retirement from the U.S. Air Force.

HR 2817 (by Hernandez), Honoring Tony Rodriques for his participation in the Texas Legislative Internship Program.

HR 2818 (by Hernandez, et al.), Honoring Jennifer Nguyen of Houston for her participation in the Texas Legislative Internship Program.

HR 2819 (by Hernandez, et al.), Honoring DaeJan-Elizabeth Grigsby for her participation in the Texas Legislative Internship Program.

HR 2820 (by Hernandez), Honoring Tariq Gladney for his participation in the Texas Legislative Internship Program.

HR 2821 (by Hernandez), Honoring Ronnie Piper for his participation in the Texas Legislative Internship Program.

HR 2822 (by Hernandez), Honoring Kaitlyn Murphy of Houston for her participation in the Texas Legislative Internship Program.

HR 2823 (by Hernandez), Honoring Brooke Lierman for her participation in the Texas Legislative Internship Program.

HR 2824 (by Hernandez, et al.), Honoring Phillip Song of Houston for his participation in the Texas Legislative Internship Program.

HR 2825 (by Hernandez), Honoring Krystal Austin for her participation in the Texas Legislative Internship Program.

HR 2826 (by Hernandez), Honoring Marvin Poole of Duncanville for his participation in the Texas Legislative Internship Program.

HR 2827 (by Hernandez), Honoring Simeon G. Popoff for his participation in the Texas Legislative Internship Program.

HR 2828 (by Hernandez), Honoring Nikeyla Johnson for her participation in the Texas Legislative Internship Program.

HR 2829 (by Hernandez), Honoring Yasmeen Belal for her participation in the Texas Legislative Internship Program.

HR 2830 (by Hernandez), Honoring Larry Taylor for his participation in the Texas Legislative Internship Program.

HR 2831 (by Hernandez), Honoring Andrea Hochleutner for her participation in the Texas Legislative Internship Program.

HR 2832 (by Hernandez), Honoring Lesley Nelson for her participation in the Texas Legislative Internship Program.

HR 2833 (by Hernandez), Honoring Elizabeth Choate for her participation in the Texas Legislative Internship Program.

HR 2834 (by Hernandez), Honoring Allen McClinton for his participation in the Texas Legislative Internship Program.

HR 2835 (by Hernandez), Honoring Karen Gilbert for her participation in the Texas Legislative Internship Program.

HR 2836 (by Hernandez), Honoring Martie Garcia for her participation in the Texas Legislative Internship Program.

HR 2837 (by Hernandez), Honoring Luckett Johnson for his participation in the Texas Legislative Internship Program.

HR 2838 (by Hernandez), Honoring Iman Houston for her participation in the Texas Legislative Internship Program.

HR 2839 (by Hernandez), Honoring Nindiya Ramchandani for her participation in the Texas Legislative Internship Program.

HR 2840 (by Farabee), Honoring Rodd Womble of Wichita Falls for becoming the owner of the First Wichita Building.

HR 2841 (by Bonnen), Honoring Joe A. Ragland, Sr., of Angleton on his 90th birthday.

HR 2845 (by Flynn), Honoring Canton Methodist Church on its 150th anniversary.

HR 2846 (by Dutton), Honoring attorney E. Eugene Palmer of Austin for his professional achievements.

HR 2850 (by Flynn), Congratulating Truman and Jane Heddins of Grand Saline on their 50th wedding anniversary.

HR 2852 (by Flynn), Congratulating Lowell and Carolyn Daughtry of Ben Wheeler on their 50th wedding anniversary.

HR 2855 (by B. Brown), Commending the staff of the Legislative Reference Library for their significant contributions to the 80th Legislative Session.

HR 2864 (by Hernandez), Honoring Sharita Thomas for her participation in the Texas Legislative Internship Program.

HR 2870 (by Goolsby), Honoring the employees of the House Business Office for their service during the 80th Texas Legislature.

HR 2873 (by Gonzalez Toureilles), Honoring Claudia Garcia on being named the Elementary Teacher of the Year runner-up for the Alice Independent School District.

HR 2874 (by Martinez), Honoring the interns and aide of State Representative Armando "Mando" Martinez for their service throughout the 80th Legislative Session.

HR 2875 (by Hughes), Commending Harold C. Simmons for his gifts to the Alba-Golden Independent School District and the community of Golden.

HR 2882 (by Harper-Brown), Honoring the 2007 Irving Firefighters' Ball, presented by the Irving Fire Foundation.

HR 2883 (by Callegari), Honoring Kevin Chen, Jeff Feng, Kevin Li, Bobby Shen, and Coach Jeff Boyd of the Texas MATHCOUNTS Team for their victory at the 2007 MATHCOUNTS National Competition.

HR 2884 (by Zedler), Honoring Deborah Parks of Summit High School in Arlington for sponsoring the Young Republicans Club.

HR 2886 (by Vaught), Commending Jess and Peggy Johnson of Dallas for organizing and supporting the nonprofit organization Vet to Vet.

HR 2888 (by Villarreal), Congratulating Dr. Antonia I. Castaneda on her retirement from St. Mary's University.

HR 2895 (by S. King), Commending Toni Wellhausen of Abilene on her participation in the legislative process.

HR 2896 (by Dunnam), Honoring the Stagecoach Inn in Salado.

HR 2897 (by Dunnam), Commemorating the 50th anniversary of Sacred Heart Catholic Church in Waco.

HR 2898 (by Morrison), Honoring the Victoria County Master Gardener Association for its achievements and commemorating the grand opening of the Victoria Educational Gardens Expansion Project.

HR 2899 (by Morrison), Congratulating Jack Bowen of Victoria on his retirement as vice president of Fordyce, Ltd.

HR 2901 (by Martinez Fischer), Congratulating Corinne Saldana on her retirement as principal of Oliver Wendell Holmes High School in San Antonio.

HR 2906 (by Goolsby), Honoring Capitol nurse practitioner Tim Flynn for his service to the legislative community during the Regular Session of the 80th Legislature.

HR 2907 (by Goolsby), Honoring House Parliamentarian Denise Davis and her staff for their exemplary service during the 80th legislative session.

HR 2908 (by Gonzalez Toureilles), Congratulating Emerson Lucas for being named Salazar Elementary School Teacher of the Year in the Alice Independent School District.

HR 2910 (by Peña), Commemorating the grand opening of the new Edwards Abstract and Title Company headquarters in Edinburg.

HR 2911 (by Peña), Commending Anne Kathleen Creixell on her service as general counsel of the House Committee on Criminal Jurisprudence and Chairman Aaron Pena.

HR 2914 (by Peña), Commending Shaine Mata for his service as an assistant committee clerk with the House Committee on Criminal Jurisprudence.

HR 2916 (by Peña), Commending Chelsea Harmon for her service as an intern with the House Committee on Criminal Jurisprudence.

HR 2917 (by Flynn), Congratulating John and Opal Huff of Canton on their 60th wedding anniversary.

HR 2918 (by Gonzalez Toureilles), Congratulating Raquel Hodges of the Alice Independent School District on being named the 2006-2007 Schallert Elementary School Teacher of the Year.

HR 2919 (by Gonzalez Toureilles), Congratulating Debra Beltran of the Alice Independent School District for being named the 2006-2007 Saenz Elementary School Teacher of the Year.

HR 2920 (by Gonzalez Toureilles), Congratulating Paul Ramos on his selection as the 2006-2007 Hillcrest Elementary Teacher of the Year in the Alice Independent School District.

HR 2922 (by Gonzalez Toureilles), Congratulating Roxanne Gonzales of the Alice Independent School District on being named the 2006-2007 Mary R. Garcia Elementary School Teacher of the Year.

HR 2923 (by Gonzalez Toureilles), Congratulating Anna Barrera on being named a Dubose Intermediate School 2006-2007 Teacher of the Year in the Alice Independent School District.

HR 2924 (by Gonzalez Toureilles), Congratulating Mari Carmen McDermott on being named a 2006-2007 Dubose Intermediate Teacher of the Year in the Alice Independent School District.

HR 2925 (by Gonzalez Toureilles), Congratulating Ramiro Pena of the Alice Independent School District on his selection as the 2006-2007 William Adams Middle School Teacher of the Year.

HR 2926 (by Gonzalez Toureilles), Honoring Linda Valerio on her selection as the 2006-2007 Elementary Teacher of the Year for the Alice Independent School District.

HR 2927 (by Gonzalez Toureilles), Honoring Graciela Barrett of Memorial Intermediate School on being named the Secondary Teacher of the Year runner-up for the Alice Independent School District.

HR 2928 (by Gonzalez Toureilles), Honoring Carlos De La Garza of Alice High School on his selection as the 2006-2007 Secondary Teacher of the Year of the Alice Independent School District.

HR 2929 (by Callegari), Congratulating Keep Katy Beautiful on winning a 2007 Governor's Community Achievement Award.

HR 2930 (by Callegari), Congratulating Don Elder, Jr., on his election as mayor of Katy.

HR 2931 (by Callegari), Congratulating Douglas Freeman Callegari on his graduation from Dripping Springs High School.

HR 2932 (by Herrero), Congratulating twins Della Elzner and Ella Simcik on their 90th birthday.

HR 2933 (by Kuempel), Recognizing that the presumed site of the West Pole as being in the sovereign State of Texas.

HR 2934 (by Farabee), Congratulating Joe Tom White of Wichita Falls on his 68th birthday.

HR 2935 (by Rodriguez), Congratulating Roger Huerta on his graduation from Augsburg College and his success as a professional athlete.

HR 2936 (by Merritt and Harless), Providing for the abolition of speaker pledge cards and for the election of the speaker.

HR 2938 (by Martinez), Congratulating Clarissa Ann Balli on being named valedictorian of Donna High School.

HR 2940 (by Martinez), Honoring Jacqueline Renee Valdez on being named the 2007 salutatorian of Weslaco East High School.

HR 2941 (by Martinez), Honoring Miriam Aceves on being named the 2007 valedictorian of Weslaco East High School.

HR 2942 (by Alonzo), Congratulating Eric Ivan Lopez on graduating as the valedictorian of W. H. Adamson High School in Dallas.

HR 2943 (by Alonzo), Congratulating Brenda Guadiana on graduating as the 2007 salutatorian of W. H. Adamson High School in Dallas.

HR 2944 (by Alonzo), Congratulating Dolores Lopez on graduating as the 2007 salutatorian of Molina High School in Dallas.

HR 2945 (by Alonzo), Congratulating Leticia Villaneda on graduating as the 2007 valedictorian of Molina High School in Dallas.

HR 2946 (by Noriega), Honoring Sylvia Rodriguez for her service to her community and state.

HR 2947 (by Noriega), Honoring Arthur A. Valdez of Houston on his retirement from the Texas Alcoholic Beverage Commission.

HR 2949 (by Raymond), Congratulating Steve Asmussen of Arlington for training Curlin, the winning horse in the 132nd Preakness Stakes.

HR 2954 (by Giddings), Recognizing the Lancaster Visitors Center as an auxiliary Texas museum.

HR 2955 (by Menendez), Congratulating Joe Krier on his retirement as president and CEO of the Greater San Antonio Chamber of Commerce.

HR 2957 (by Kolkhorst), Congratulating Teri E. Flack on her retirement after a career in public service.

HR 2958 (by Kolkhorst), Congratulating the winners of the Search for Solutions competition held during the 22nd annual John Ben Shepperd Texas Leadership Forum.

HR 2959 (by Rose), Congratulating Texan Marc Glosserman on the opening of his Hill Country BBQ Restaurant in New York City.

HR 2960 (by Dunnam), Congratulating Leta Hartgroves and O. E. Hartgroves, Jr., of Waco on their 50th wedding anniversary.

HR 2961 (by Chavez), Congratulating Roxanne Nichole Garza on her acceptance into the 2007 Teach For America corps.

HR 2964 (by McClendon), Honoring Diana A. Guzman for serving as Democratic Party precinct chair of Precinct 4142 in Bexar County.

HR 2965 (by McClendon), Honoring Dr. Cecily A. Scott for serving as Democratic Party precinct chair of Precinct 4150 in Bexar County.

HR 2966 (by McClendon), Honoring Amelia Minton for serving as Democratic Party precinct chair of Precinct 4151 in Bexar County.

HR 2967 (by McClendon), Honoring Gilbert J. Murillo for serving as Democratic Party precinct chair of Precinct 4122 in Bexar County.

HR 2968 (by McClendon), Honoring Gilbert M. Perez for serving as Democratic Party precinct chair of Precinct 4088 in Bexar County.

HR 2969 (by McClendon), Honoring Alfonso Reina, Jr., for serving as Democratic Party precinct chair of Precinct 4076 in Bexar County.

HR 2970 (by McClendon), Honoring George E. McFerren for serving as Democratic Party precinct chair of Precinct 4066 in Bexar County.

HR 2971 (by McClendon), Honoring Charles Peterson for serving as Democratic Party precinct chair of Precinct 4065 in Bexar County.

HR 2972 (by McClendon), Honoring William B. Johnson for serving as Democratic Party precinct chair of Precinct 4045 in Bexar County.

HR 2973 (by McClendon), Honoring Denver McClendon for serving as Democratic Party precinct chair of Precinct 4040 in Bexar County.

HR 2974 (by McClendon), Honoring Renee A. Watson for serving as Democratic Party precinct chair of Precinct 4039 in Bexar County.

HR 2975 (by McClendon), Honoring Vincente A. Garcia for serving as Democratic Party precinct chair of Precinct 4010 in Bexar County.

HR 2977 (by Vaught), Congratulating Madeleine Ball of White Rock on winning Best of Fair at the 2007 Exxon Mobil Texas Science and Engineering Fair.

HR 2978 (by Dutton), Commemorating the 80th anniversary of Phillis Wheatley High School in Houston.

HR 2979 (by W. Smith), Honoring Stephanie Schnabel on being named the valedictorian of the La Porte High School Class of 2007.

HR 2980 (by W. Smith), Congratulating Stephanie Bruse of Pasadena on being named valedictorian of the Class of 2007 at Deer Park High School.

HR 2981 (by W. Smith), Congratulating Brett Chauviere on being named valedictorian of Robert E. Lee High School in Baytown.

HR 2982 (by W. Smith), Congratulating Eugene Matir of Baytown for being named valedictorian of Ross S. Sterling High School.

HR 2983 (by Giddings), Honoring entertainer and activist Dick Gregory.

HR 2985 (by Gattis), Commending Colleen Farish for her service as scheduler and constituent services assistant in the office of State Representative Dan Gattis.

HR 2986 (by Gattis), Commending Toni B. Simmons for her service as a legislative assistant in the office of State Representative Dan Gattis.

HR 2987 (by Gattis), Commending Jacqueline Elizabeth McGehee for her service as a legislative aide.

HR 2988 (by Gattis), Honoring Hal Talton for his public service as chief of staff and general counsel in the office of State Representative Dan Gattis.

HR 2991 (by Hernandez), Congratulating Kelsey Katherine Guillory on her quinceañera.

HR 2992 (by Corte), Honoring Scott Paul of San Antonio for his devotion as a husband and father.

HR 2994 (by Burnam, et al.), Commending House Parliamentarian Denise Davis and Deputy Parliamentarian Christopher Griesel.

SCR 46 (Dunnam, Corte, and Escobar - House Sponsors), Requesting the United States Congress to authorize the Secretary of the United States Department of Veterans Affairs to convey the Thomas T. Connally Department of Veterans Affairs Medical Center in Marlin, Texas, to the State of Texas.

SCR 88 (Rose - House Sponsor), Supporting the protection of Jacob's Well and the associated missions and regional conservation initiatives of the Wimberley Valley Watershed Association.

The congratulatory resolutions were adopted.

MOTIONS TO ADD NAMES

On motion of Representative Gallego, the names of all the members of the house were added to **HR 2990** as signers thereof.

On motion of Representative Raymond, the names of all the members of the house were added to **HR 2653**, **HR 2654**, and **HR 2655** as signers thereof.

On motion of Representative Corte, the names of all the members of the house were added to **HR 2992** as signers thereof.

PROVIDING FOR ADJOURNMENT SINE DIE

Representative Jones moved that, at the conclusion of the signing of bills and resolutions, the house stand adjourned sine die in memory of the Honorable Nancy Hanks McDonald of El Paso.

The motion prevailed.

(Morrison in the chair)

BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER

Notice was given at this time that the speaker had signed bills and resolutions in the presence of the house (see the addendum to the daily journal, Signed by the Speaker, House List No. 53 and Senate List Nos. 50 and 56).

ADJOURNMENT SINE DIE

In accordance with a previous motion, Representative Morrison, at 12 midnight, pronounced the House of Representatives of the Regular Session of the Eightieth Legislature adjourned sine die.

ADDENDUM

SIGNED BY THE SPEAKER

The following bills and resolutions were today signed in the presence of the house by the speaker:

House List No. 49

HB 109, HB 119, HB 126, HB 155, HB 447, HB 556, HB 772, HB 814, HB 892, HB 899, HB 1113, HB 1251, HB 1270, HB 1457, HB 1522, HB 1623, HB 1638, HB 1742, HB 1864, HB 2006, HB 2034, HB 2207, HB 2542, HB 2819, HB 2823, HB 2884, HB 3066, HB 3200, HB 3385, HB 3430, HB 3613, HB 3674, HB 4139, HCR 1, HCR 198, HCR 257, HCR 269, HCR 270, HCR 280

House List No. 50

HB 539, HB 568, HB 828, HB 945, HB 1090, HB 1111, HB 1137, HB 1267, HB 2265, HB 2383, HB 2399, HB 2644, HB 2667, HB 2814, HB 3319, HB 3560, HB 3581, HB 3826, HCR 109

House List No. 51

HB 1, HB 1481

House List No. 52

HB 1386, HB 2072, HB 2096, HB 2563, HB 2605, HB 3315, HB 3851, HB 4091, HCR 271, HCR 274, HCR 275, HCR 279, HCR 282, HCR 283, HCR 284, HCR 285, HCR 288

House List No. 53

HB 3, HB 4, HB 12, HB 15, HB 472, HB 610, HB 624, HB 1168, HB 1521, HB 1565, HB 1801, HB 1919, HB 1977, HB 2093, HB 2094, HB 2237, HB 2833, HB 3107, HB 3154, HB 3249, HB 3314, HB 3382, HB 3609, HB 3693, HB 3732, HCR 286

Senate List No. 50

SB 791

Senate List No. 53

SB 27, SB 36, SB 103, SB 282, SB 548, SB 593, SB 759, SB 763, SB 776, SB 839, SB 964, SB 968, SB 993, SB 1123, SB 1217, SB 1232, SB 1383, SB 1436, SB 1520, SB 1523, SB 1601, SB 1640, SB 1714, SB 1833, SB 1896, SB 1983, SB 1985, SCR 80

Senate List No. 54

SB 9, SB 10, SB 199, SB 344, SB 765, SB 960, SB 1154, SB 1266, SB 1332, SB 1499, SB 1517, SB 1562, SB 1731, SB 1871, SB 1879, SCR 82

Senate List No. 55

SB 6, SB 228, SB 1058, SB 1069, SB 1119, SB 1846, SB 1908

Senate List No. 56

SB 3, SB 8, SB 11, SB 12, SB 222, SB 406, SB 530, SB 718, SB 758, SB 909, SB 1031, SB 1604, SB 1951, SCR 46, SCR 86, SCR 87, SCR 88, SCR 89, SCR 90

MESSAGES FROM THE SENATE

The following messages from the senate were today received by the house:

Message No. 1**MESSAGE FROM THE SENATE****SENATE CHAMBER**

Austin, Texas

Monday, May 28, 2007

The Honorable Speaker of the House

House Chamber

Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

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

SB 1069 (30 Yeas, 0 Nays)

SB 1517 (30 Yeas, 0 Nays)

THE SENATE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

HB 1 (25 Yeas, 5 Nays)

Respectfully,

Patsy Spaw

Secretary of the Senate

Message No. 2**MESSAGE FROM THE SENATE****SENATE CHAMBER**

Austin, Texas

Monday, May 28, 2007 - 2

The Honorable Speaker of the House

House Chamber

Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

HCR 271 Homer SPONSOR: Eltife
In memory of Dean Vincent Grossnickle.

HCR 275 Miles SPONSOR: Ellis
In memory of Herriford "John" Williams of New Waverly.

HCR 279

Homer

SPONSOR: Eltife

In memory of Lloyd R. Smith of Collinsville.

SCR 89

Duncan

SPONSOR: Bonnen

Instructing the enrolling clerk of the senate to make corrections in **SB 1604**.

Respectfully,

Patsy Spaw

Secretary of the Senate

Message No. 3

MESSAGE FROM THE SENATE

SENATE CHAMBER

Austin, Texas

Monday, May 28, 2007 - 3

The Honorable Speaker of the House

House Chamber

Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

HCR 274

Coleman

SPONSOR: Ellis

Instructing the enrolling clerk of the house to make corrections to **HB 4091**.**HCR 283**

Hochberg

SPONSOR: Whitmire

Instructing the enrolling clerk of the house to make corrections in **HB 2605**.**HCR 284**

Hancock

SPONSOR: Van de Putte

Instructing the enrolling clerk of the House to make corrections in **HB 2563**.**HCR 285**

Eissler

SPONSOR: Shapiro

Instructing the enrolling clerk of the senate to make corrections in **SB 1031**.**HCR 288**

Taylor

SPONSOR: Averitt

Instructing the enrolling clerk of the house of representatives to make corrections in **HB 1977**.**SCR 87**

Shapiro

Instructing the enrolling clerk of the senate to make corrections in **SB 1031**.**SCR 88**

Wentworth

Supporting the protection of Jacob's Well and the associated missions and regional conservation initiatives of the Wimberley Valley Watershed Association.

SCR 90

Carona

SPONSOR: Corte, Frank

Instructing the enrolling clerk of the senate to make corrections in **SB 11**.

Respectfully,

Patsy Spaw

Secretary of the Senate

Message No. 4

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Monday, May 28, 2007 - 4

The Honorable Speaker of the House
House Chamber
Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

HCR 282 Solomons SPONSOR: Van de Putte
Instructing the enrolling clerk of the House to make corrections in **HB 472**.

THE SENATE HAS ADOPTED THE FOLLOWING CONFERENCE
COMMITTEE REPORTS:

HB 1386 (30 Yeas, 0 Nays)

Respectfully,
Patsy Spaw
Secretary of the Senate

Message No. 5

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Monday, May 28, 2007 - 5

The Honorable Speaker of the House
House Chamber
Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

HCR 286 Hilderbran SPONSOR: Estes
Instructing the enrolling clerk of the house of representatives to make corrections in **HB 12**.

THE SENATE HAS ADOPTED THE FOLLOWING CONFERENCE
COMMITTEE REPORTS:

HB 3 (30 Yeas, 0 Nays)

HB 4 (30 Yeas, 0 Nays)

HB 12 (30 Yeas, 0 Nays)

HB 1565

(30 Yeas, 0 Nays)

Respectfully,
Patsy Spaw
Secretary of the Senate

APPENDIX

ENROLLED

May 27 - HB 88, HB 126, HB 160, HB 191, HB 426, HB 463, HB 470, HB 473, HB 556, HB 581, HB 586, HB 730, HB 735, HB 779, HB 814, HB 860, HB 866, HB 914, HB 930, HB 946, HB 1060, HB 1066, HB 1141, HB 1196, HB 1314, HB 1391, HB 1473, HB 1495, HB 1498, HB 1503, HB 1526, HB 1541, HB 1551, HB 1563, HB 1594, HB 1610, HB 1637, HB 1680, HB 1751, HB 1786, HB 1857, HB 1960, HB 1973, HB 1988, HB 2120, HB 2198, HB 2300, HB 2392, HB 2402, HB 2458, HB 2502, HB 2532, HB 2541, HB 2566, HB 2621, HB 2641, HB 2653, HB 2701, HB 2702, HB 2738, HB 2762, HB 2783, HB 2859, HB 2864, HB 2978, HB 2982, HB 2994, HB 3064, HB 3101, HB 3105, HB 3184, HB 3190, HB 3199, HB 3275, HB 3309, HB 3358, HB 3378, HB 3417, HB 3426, HB 3440, HB 3441, HB 3443, HB 3475, HB 3496, HB 3517, HB 3518, HB 3554, HB 3571, HB 3575, HB 3584, HB 3594, HB 3618, HB 3630, HB 3678, HB 3692, HB 3694, HB 3699, HB 3711, HB 3731, HB 3837, HB 3838, HB 3849, HB 3928, HB 4028, HB 4029, HB 4032, HB 4053, HB 4061, HB 4091, HB 4113, HB 4134, HCR 1, HCR 121, HCR 198, HCR 253, HCR 265, HCR 269, HCR 272, HCR 273, HCR 280, HJR 19

May 28 - HB 1, HB 109, HB 119, HB 155, HB 447, HB 539, HB 568, HB 610, HB 772, HB 828, HB 892, HB 899, HB 945, HB 1090, HB 1111, HB 1113, HB 1137, HB 1251, HB 1267, HB 1270, HB 1386, HB 1457, HB 1481, HB 1522, HB 1623, HB 1638, HB 1742, HB 1864, HB 2006, HB 2034, HB 2072, HB 2096, HB 2207, HB 2265, HB 2383, HB 2399, HB 2542, HB 2563, HB 2605, HB 2644, HB 2667, HB 2814, HB 2819, HB 2823, HB 2884, HB 3066, HB 3200, HB 3315, HB 3319, HB 3385, HB 3430, HB 3560, HB 3581, HB 3609, HB 3613, HB 3674, HB 3826, HB 3851, HB 4091, HB 4139, HCR 109, HCR 257, HCR 270, HCR 271, HCR 274, HCR 275, HCR 279, HCR 282, HCR 283, HCR 284, HCR 285, HCR 288

May 29 - HB 3, HB 4, HB 12, HB 15, HB 472, HB 624, HB 1168, HB 1521, HB 1565, HB 1801, HB 1919, HB 1977, HB 2093, HB 2094, HB 2237, HB 2833, HB 3107, HB 3154, HB 3249, HB 3314, HB 3382, HB 3693, HB 3732, HCR 286

RECOMMENDATIONS FILED WITH THE SPEAKER

May 27 - HB 4058, HB 4060, HB 4064, HB 4066, HB 4070, HB 4072, HB 4074, HB 4076, HB 4077, HB 4078, HB 4084, HB 4088, HB 4090, HB 4100, HB 4104, HB 4110, HB 4112, HB 4114, HB 4116, HB 4118, HB 4119, HB 4120, HB 4124, HB 4128, HB 4134, HB 4138

SENT TO THE GOVERNOR

May 28 - HB 53, HB 88, HB 147, HB 160, HB 191, HB 316, HB 317, HB 426, HB 438, HB 448, HB 460, HB 463, HB 470, HB 473, HB 492, HB 544, HB 550, HB 555, HB 581, HB 586, HB 589, HB 638, HB 681, HB 724, HB 730, HB 735, HB 779, HB 860, HB 866, HB 914, HB 930, HB 946, HB 957, HB 967, HB 971, HB 1009, HB 1038, HB 1044, HB 1060, HB 1066, HB 1086, HB 1092, HB 1093, HB 1141, HB 1196, HB 1205, HB 1207, HB 1250, HB 1265, HB 1287, HB 1290, HB 1303, HB 1314, HB 1316, HB 1330, HB 1391, HB 1400, HB 1459, HB 1460, HB 1470, HB 1473, HB 1495, HB 1498, HB 1503, HB 1519, HB 1524, HB 1526, HB 1541, HB 1551, HB 1563, HB 1594, HB 1609, HB 1610, HB 1633, HB 1637, HB 1656, HB 1667, HB 1669, HB 1671, HB 1680, HB 1748, HB 1751, HB 1775, HB 1786, HB 1857, HB 1886, HB 1889, HB 1899, HB 1944, HB 1955, HB 1960, HB 1973, HB 1988, HB 2004, HB 2060, HB 2074, HB 2106, HB 2118, HB 2120, HB 2138, HB 2173, HB 2190, HB 2198, HB 2210, HB 2222, HB 2261, HB 2285, HB 2291, HB 2300, HB 2328, HB 2365, HB 2389, HB 2392, HB 2402, HB 2417, HB 2426, HB 2427, HB 2438, HB 2458, HB 2460, HB 2467, HB 2482, HB 2498, HB 2501, HB 2502, HB 2510, HB 2523, HB 2524, HB 2532, HB 2541, HB 2543, HB 2548, HB 2564, HB 2566, HB 2621, HB 2641, HB 2653, HB 2701, HB 2702, HB 2703, HB 2713, HB 2714, HB 2715, HB 2723, HB 2724, HB 2734, HB 2738, HB 2751, HB 2752, HB 2762, HB 2782, HB 2783, HB 2820, HB 2827, HB 2859, HB 2864, HB 2895, HB 2896, HB 2897, HB 2917, HB 2918, HB 2926, HB 2935, HB 2936, HB 2944, HB 2949, HB 2978, HB 2982, HB 2994, HB 3060, HB 3064, HB 3101, HB 3105, HB 3106, HB 3184, HB 3190, HB 3199, HB 3220, HB 3232, HB 3271, HB 3275, HB 3309, HB 3358, HB 3378, HB 3417, HB 3426, HB 3440, HB 3441, HB 3443, HB 3475, HB 3496, HB 3517, HB 3518, HB 3552, HB 3554, HB 3571, HB 3575, HB 3584, HB 3594, HB 3618, HB 3630, HB 3672, HB 3678, HB 3692, HB 3694, HB 3699, HB 3711, HB 3731, HB 3769, HB 3776, HB 3837, HB 3838, HB 3849, HB 3876, HB 3879, HB 3928, HB 3984, HB 3990, HB 4007, HB 4015, HB 4028, HB 4029, HB 4031, HB 4032, HB 4037, HB 4038, HB 4039, HB 4040, HB 4041, HB 4042, HB 4043, HB 4045, HB 4046, HB 4047, HB 4053, HB 4056, HB 4057, HB 4061, HB 4062, HB 4065, HB 4067, HB 4069, HB 4070, HB 4072, HB 4074, HB 4079, HB 4080, HB 4083, HB 4084, HB 4093, HB 4094, HB 4096, HB 4097, HB 4098, HB 4099, HB 4101, HB 4104, HB 4107, HB 4109, HB 4110, HB 4111, HB 4112, HB 4113, HB 4114, HB 4123, HB 4134, HCR 12, HCR 16, HCR 25, HCR 35, HCR 96, HCR 102, HCR 111, HCR 121, HCR 151, HCR 164, HCR 187, HCR 207,

HCR 233, HCR 253, HCR 260, HCR 265, HCR 266, HCR 267, HCR 272, HCR 273

May 29 - HB 109, HB 119, HB 126, HB 155, HB 447, HB 556, HB 772, HB 814, HB 892, HB 899, HB 1113, HB 1251, HB 1270, HB 1457, HB 1522, HB 1623, HB 1638, HB 1742, HB 1864, HB 2006, HB 2034, HB 2207, HB 2542, HB 2819, HB 2823, HB 2884, HB 3066, HB 3200, HB 3385, HB 3430, HB 3613, HB 3674, HB 4139, HCR 1, HCR 198, HCR 257, HCR 269, HCR 270, HCR 280

May 30 - HB 3, HB 4, HB 12, HB 472, HB 610, HB 624, HB 1168, HB 1386, HB 1481, HB 1521, HB 1565, HB 1801, HB 1919, HB 1977, HB 2072, HB 2093, HB 2094, HB 2096, HB 2237, HB 2563, HB 2605, HB 2833, HB 3107, HB 3154, HB 3249, HB 3314, HB 3315, HB 3382, HB 3609, HB 3693, HB 3732, HB 3851, HB 4091, HCR 271, HCR 274, HCR 275, HCR 279, HCR 282, HCR 283, HCR 284, HCR 285, HCR 286, HCR 288

May 31 - HB 539, HB 568, HB 828, HB 945, HB 1090, HB 1111, HB 1137, HB 1267, HB 2265, HB 2383, HB 2399, HB 2644, HB 2667, HB 2814, HB 3319, HB 3560, HB 3581, HB 3826, HCR 109

SENT TO THE COMPTROLLER

May 29 - HB 1, HB 2

May 30 - HB 15

SENT TO THE SECRETARY OF THE STATE

May 29 - HJR 6, HJR 19, HJR 30, HJR 40, HJR 54, HJR 72, HJR 90

SENT TO THE GOVERNOR

June 5 - HB 1, HB 2, HB 15

SIGNED BY THE GOVERNOR

June 4 - HB 1093

June 6 - HB 323, HB 3954

June 8 - HB 1634, HB 3678

June 12 - HB 2978

June 13 - HB 14, HB 2702

SIGNED BY THE GOVERNOR

June 15 - HB 2, HB 3, HB 4, HB 8, HB 12, HB 41, HB 53, HB 54, HB 56, HB 71, HB 73, HB 75, HB 86, HB 88, HB 89, HB 90, HB 95, HB 109, HB 119, HB 120, HB 126, HB 142, HB 147, HB 149, HB 155, HB 160, HB 177, HB 184, HB 191, HB 198, HB 199, HB 210, HB 261, HB 264, HB 278, HB 280, HB 290, HB 308, HB 309, HB 312, HB 316, HB 321, HB 335, HB 342, HB 343, HB 373, HB 387, HB 389, HB 391, HB 401,

HB 412, HB 413, HB 416, HB 417, HB 421, HB 425, HB 426, HB 429,
HB 431, HB 432, HB 433, HB 434, HB 438, HB 448, HB 455, HB 460,
HB 462, HB 463, HB 470, HB 472, HB 473, HB 485, HB 486, HB 487,
HB 488, HB 492, HB 495, HB 496, HB 505, HB 519, HB 530, HB 534,
HB 536, HB 538, HB 539, HB 550, HB 555, HB 556, HB 567, HB 573,
HB 581, HB 586, HB 587, HB 590, HB 606, HB 610, HB 621, HB 624,
HB 629, HB 638, HB 649, HB 654, HB 662, HB 680, HB 681, HB 682,
HB 693, HB 713, HB 716, HB 724, HB 730, HB 735, HB 755, HB 764,
HB 772, HB 776, HB 779, HB 814, HB 828, HB 831, HB 842, HB 860,
HB 866, HB 868, HB 872, HB 887, HB 888, HB 890, HB 891, HB 892,
HB 899, HB 902, HB 914, HB 916, HB 921, HB 922, HB 930, HB 945,
HB 946, HB 953, HB 957, HB 959, HB 964, HB 967, HB 989, HB 1009,
HB 1010, HB 1022, HB 1029, HB 1034, HB 1038, HB 1042, HB 1044,
HB 1045, HB 1049, HB 1052, HB 1060, HB 1066, HB 1067, HB 1070,
HB 1082, HB 1086, HB 1090, HB 1111, HB 1113, HB 1121, HB 1127,
HB 1137, HB 1141, HB 1157, HB 1158, HB 1166, HB 1168, HB 1183,
HB 1187, HB 1188, HB 1194, HB 1196, HB 1204, HB 1207, HB 1212,
HB 1241, HB 1244, HB 1248, HB 1250, HB 1251, HB 1254, HB 1265,
HB 1267, HB 1270, HB 1275, HB 1287, HB 1290, HB 1297, HB 1298,
HB 1303, HB 1314, HB 1316, HB 1330, HB 1346, HB 1352, HB 1355,
HB 1370, HB 1373, HB 1374, HB 1381, HB 1382, HB 1386, HB 1391,
HB 1400, HB 1411, HB 1412, HB 1418, HB 1420, HB 1446, HB 1456,
HB 1457, HB 1459, HB 1460, HB 1470, HB 1471, HB 1473, HB 1481,
HB 1493, HB 1495, HB 1497, HB 1498, HB 1500, HB 1521, HB 1522,
HB 1524, HB 1526, HB 1530, HB 1541, HB 1545, HB 1551, HB 1561,
HB 1563, HB 1565, HB 1572, HB 1573, HB 1579, HB 1585, HB 1586,
HB 1587, HB 1590, HB 1594, HB 1609, HB 1610, HB 1614, HB 1623,
HB 1633, HB 1637, HB 1638, HB 1652, HB 1656, HB 1669, HB 1671,
HB 1678, HB 1679, HB 1680, HB 1694, HB 1700, HB 1709, HB 1710,
HB 1717, HB 1719, HB 1720, HB 1728, HB 1734, HB 1737, HB 1739,
HB 1741, HB 1742, HB 1747, HB 1748, HB 1751, HB 1759, HB 1764,
HB 1766, HB 1767, HB 1775, HB 1786, HB 1787, HB 1788, HB 1789,
HB 1795, HB 1798, HB 1801, HB 1804, HB 1815, HB 1820, HB 1839,
HB 1841, HB 1844, HB 1847, HB 1849, HB 1850, HB 1857, HB 1864,
HB 1871, HB 1886, HB 1887, HB 1889, HB 1899, HB 1910, HB 1915,
HB 1919, HB 1920, HB 1921, HB 1928, HB 1930, HB 1944, HB 1955,
HB 1960, HB 1972, HB 1973, HB 1977, HB 1988, HB 1995, HB 2002,
HB 2004, HB 2010, HB 2015, HB 2034, HB 2042, HB 2045, HB 2056,
HB 2060, HB 2070, HB 2072, HB 2074, HB 2075, HB 2077, HB 2091,
HB 2092, HB 2093, HB 2094, HB 2095, HB 2096, HB 2101, HB 2106,
HB 2112, HB 2115, HB 2117, HB 2118, HB 2120, HB 2132, HB 2138,
HB 2144, HB 2151, HB 2163, HB 2171, HB 2173, HB 2174, HB 2190,
HB 2198, HB 2207, HB 2210, HB 2216, HB 2218, HB 2222, HB 2235,
HB 2237, HB 2256, HB 2261, HB 2267, HB 2278, HB 2281, HB 2282,
HB 2283, HB 2285, HB 2288, HB 2291, HB 2293, HB 2300, HB 2313,
HB 2322, HB 2328, HB 2341, HB 2348, HB 2350, HB 2352, HB 2353,

HB 2358, HB 2359, HB 2365, HB 2368, HB 2371, HB 2383, HB 2385,
HB 2389, HB 2391, HB 2392, HB 2393, HB 2398, HB 2399, HB 2400,
HB 2402, HB 2411, HB 2417, HB 2426, HB 2427, HB 2438, HB 2442,
HB 2444, HB 2445, HB 2458, HB 2460, HB 2462, HB 2467, HB 2471,
HB 2482, HB 2484, HB 2489, HB 2498, HB 2501, HB 2502, HB 2503,
HB 2504, HB 2510, HB 2518, HB 2523, HB 2524, HB 2532, HB 2540,
HB 2541, HB 2542, HB 2543, HB 2548, HB 2549, HB 2559, HB 2563,
HB 2564, HB 2565, HB 2566, HB 2580, HB 2589, HB 2591, HB 2605,
HB 2608, HB 2611, HB 2617, HB 2621, HB 2625, HB 2626, HB 2627,
HB 2636, HB 2639, HB 2641, HB 2644, HB 2651, HB 2653, HB 2654,
HB 2660, HB 2664, HB 2667, HB 2682, HB 2683, HB 2685, HB 2691,
HB 2694, HB 2701, HB 2703, HB 2714, HB 2715, HB 2718, HB 2723,
HB 2724, HB 2734, HB 2735, HB 2738, HB 2754, HB 2761, HB 2762,
HB 2765, HB 2766, HB 2782, HB 2783, HB 2796, HB 2799, HB 2814,
HB 2819, HB 2820, HB 2823, HB 2827, HB 2833, HB 2834, HB 2840,
HB 2859, HB 2864, HB 2882, HB 2884, HB 2895, HB 2896, HB 2897,
HB 2910, HB 2917, HB 2918, HB 2926, HB 2931, HB 2935, HB 2936,
HB 2944, HB 2945, HB 2949, HB 2967, HB 2982, HB 2983, HB 2984,
HB 2991, HB 2992, HB 2994, HB 3008, HB 3011, HB 3017, HB 3024,
HB 3038, HB 3060, HB 3064, HB 3066, HB 3070, HB 3074, HB 3089,
HB 3092, HB 3093, HB 3098, HB 3101, HB 3105, HB 3106, HB 3123,
HB 3131, HB 3132, HB 3135, HB 3138, HB 3140, HB 3143, HB 3147,
HB 3154, HB 3158, HB 3166, HB 3167, HB 3171, HB 3182, HB 3184,
HB 3190, HB 3191, HB 3195, HB 3199, HB 3210, HB 3211, HB 3220,
HB 3225, HB 3226, HB 3232, HB 3236, HB 3249, HB 3259, HB 3261,
HB 3266, HB 3270, HB 3271, HB 3273, HB 3275, HB 3290, HB 3291,
HB 3295, HB 3300, HB 3309, HB 3314, HB 3315, HB 3319, HB 3322,
HB 3325, HB 3353, HB 3358, HB 3367, HB 3378, HB 3382, HB 3385,
HB 3392, HB 3407, HB 3410, HB 3417, HB 3426, HB 3430, HB 3435,
HB 3439, HB 3440, HB 3441, HB 3443, HB 3446, HB 3470, HB 3473,
HB 3475, HB 3485, HB 3492, HB 3495, HB 3496, HB 3502, HB 3505,
HB 3514, HB 3517, HB 3537, HB 3552, HB 3554, HB 3558, HB 3560,
HB 3571, HB 3575, HB 3581, HB 3584, HB 3593, HB 3594, HB 3601,
HB 3613, HB 3618, HB 3630, HB 3634, HB 3659, HB 3672, HB 3674,
HB 3688, HB 3692, HB 3693, HB 3694, HB 3699, HB 3711, HB 3723,
HB 3731, HB 3732, HB 3735, HB 3764, HB 3769, HB 3770, HB 3776,
HB 3787, HB 3826, HB 3827, HB 3832, HB 3834, HB 3837, HB 3838,
HB 3849, HB 3851, HB 3876, HB 3879, HB 3900, HB 3928, HB 3955,
HB 3972, HB 3979, HB 3980, HB 3982, HB 3984, HB 3988, HB 3989,
HB 3990, HB 3991, HB 3992, HB 3993, HB 3995, HB 3997, HB 3998,
HB 4004, HB 4006, HB 4007, HB 4008, HB 4009, HB 4010, HB 4015,
HB 4017, HB 4018, HB 4019, HB 4022, HB 4024, HB 4028, HB 4029,
HB 4031, HB 4032, HB 4037, HB 4038, HB 4039, HB 4040, HB 4041,
HB 4042, HB 4043, HB 4044, HB 4045, HB 4046, HB 4047, HB 4053,
HB 4056, HB 4057, HB 4061, HB 4062, HB 4067, HB 4069, HB 4070,
HB 4072, HB 4074, HB 4079, HB 4080, HB 4083, HB 4084, HB 4085,

HB 4093, HB 4094, HB 4096, HB 4097, HB 4098, HB 4099, HB 4101, HB 4104, HB 4107, HB 4109, HB 4110, HB 4111, HB 4112, HB 4114, HB 4134, HB 4139, HCR 1, HCR 12, HCR 35, HCR 70, HCR 96, HCR 102, HCR 111, HCR 114, HCR 121, HCR 125, HCR 151, HCR 159, HCR 164, HCR 196, HCR 198, HCR 203, HCR 228, HCR 232, HCR 235, HCR 240, HCR 244, HCR 248, HCR 251, HCR 252, HCR 256, HCR 257, HCR 265, HCR 272, HCR 273, HCR 274, HCR 282, HCR 283, HCR 284, HCR 285, HCR 286, HCR 288

June 16 - HB 52, HB 125, HB 167, HB 188, HB 195, HB 246, HB 271, HB 273, HB 386, HB 564, HB 576, HB 585, HB 604, HB 618, HB 643, HB 948, HB 963, HB 1005, HB 1100, HB 1138, HB 1170, HB 1178, HB 1210, HB 1230, HB 1268, HB 1293, HB 1365, HB 1401, HB 2168, HB 2188, HB 2195, HB 2212, HB 2248, HB 2251, HB 2338, HB 2345, HB 2439, HB 2455, HB 2468, HB 2492, HB 2514, HB 2546, HB 2551, HB 2569, HCR 16, HCR 23, HCR 25, HCR 67, HCR 109, HCR 136, HCR 137, HCR 152, HCR 199, HCR 207, HCR 208, HCR 209, HCR 215, HCR 216, HCR 217, HCR 218, HCR 221, HCR 231, HCR 233, HCR 234, HCR 242, HCR 245, HCR 246, HCR 253, HCR 259, HCR 260, HCR 262, HCR 264, HCR 266, HCR 267, HCR 269, HCR 270, HCR 271, HCR 275, HCR 279, HCR 280

VETOED BY THE GOVERNOR

June 15 - HB 1 (line item), HB 15 (line item), HB 44, HB 47, HB 48, HB 317, HB 447, HB 541, HB 544, HB 589, HB 738, HB 971, HB 1023, HB 1092, HB 1129, HB 1179, HB 1205, HB 1427, HB 1503, HB 1519, HB 1667, HB 1687, HB 2006, HB 2087, HB 2103, HB 2265, HB 2622, HB 2646, HB 2713, HB 2990, HB 3084, HB 3200, HB 3281, HB 3352, HB 3457, HB 3609, HB 3619, HB 3647, HB 3934, HB 4065, HB 4091, HB 4113, HB 4123, HCR 187

